United Nations A/63/274

General Assembly

Distr.: General
13 August 2008

Original: English

Sixty-third session
Item 67 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report of the independent expert on the question of human rights and extreme poverty

Note by the Secretary-General

The Secretary-General has the honour to transmit to the Members of the General Assembly the interim report on the question of human rights and extreme poverty submitted by Magdalena Sepúlveda Carmona, independent expert on the question of human rights and extreme poverty, in accordance with resolution 8/11 of the Human Rights Council.

* A/63/150 and Corr.1.

08-45930 (E) 150908

Report of the independent expert on the question of human rights and extreme poverty

Summary

The present report is submitted in accordance with Human Rights Council resolution 8/11. Resolution 1998/25 of the former Commission on Human Rights established the mandate of the independent expert on the question of human rights and extreme poverty. This mandate was established with the aim of strengthening international, regional and national efforts to reduce poverty and to alleviate the effects of poverty by protecting and promoting human rights.

At the seventh session of the Human Rights Council, Ms. Magdalena Sepúlveda Carmona was appointed independent expert on the question of human rights and extreme poverty. By resolution 8/11, the Human Rights Council renewed and reinvigorated the mandate. With this report, the newly appointed independent expert outlines the existing conceptual framework and some of the main concerns that will guide her activities and be considered during her tenure. This report also sets out a proposed preliminary set of actions. The two introductory parts describe the mandate. The third part describes the conceptual framework, including the definition of extreme poverty, the relationship between poverty and human rights and the added value of a human rights approach to poverty. The next part sets the main concerns that will guide her work and activities during her tenure, including the impact of discrimination and social exclusion, the specific challenges faced by women, children and persons with disabilities, the lack of meaningful participation of people living in poverty, the impact of public policies on people living in extreme poverty, and the lack of awareness of poverty as a human rights issue. The report also makes reference to collaboration with stakeholders and relevant partners and to dissemination activities. The report concludes with a brief note on the policy issues that she will address during 2008-2009.

Eliminating extreme poverty is not a question of charity but an important and pressing human rights issue. States have legal obligations towards people living in extreme poverty that are linked to a whole range of civil, economic, political, cultural and social rights. From a human rights perspective, any initiatives to address the situation of those living in poverty must be guided by the principles of equality and non-discrimination, participation, transparency, and accountability.

As determined by the Human Rights Council, the independent expert will continue to examine the relationship between the enjoyment of human rights and extreme poverty, paying particular attention to issues of discrimination and the situation of women, children, persons with disabilities and other vulnerable groups. She will seek to carry out her work in close collaboration with a wide range of stakeholders such as States, intergovernmental organizations, regional mechanisms and civil society actors. She will also seek to collaborate with new and strategic partners such as the private sector and community-based organizations.

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I. Introduction

1. In its resolution 8/11, the Human Rights Council extended the mandate of the independent expert on the question of human rights and extreme poverty, first established by resolution 1998/25 of the Commission on Human Rights, for a further period of three years. The resolution calls upon the independent expert to continue to examine the relationship between the enjoyment of human rights and extreme poverty, paying particular attention to issues of discrimination and the situation of women, children, persons with disabilities and other groups vulnerable to discrimination. The resolution also calls upon the independent expert to contribute to different international efforts related to the elimination of poverty. She is also requested to report annually to the Human Rights Council and to the General Assembly.

2. Eliminating poverty and promoting human rights are interrelated objectives articulated in many core documents ranging from the Charter of the United Nations to the Millennium Declaration and the Millennium Development Goals.[1] In spite of the various commitments and the significant global economic growth experienced over the last 60 years, it is widely recognized that the inequality gap has widened[2] and that poverty continues to undermine the rights and dignity of people around the globe. There is, therefore, a clear and pressing need to increase efforts to reduce and eliminate extreme poverty taking a human rights perspective.

3. Extreme poverty is a problem for all regions in the world, notwithstanding their level of development. Last year, halfway towards the date set for the achievement of the Millennium Development Goals, the Secretary-General stated that, despite some progress, almost 1 billion people still live in extreme poverty.[3] Even if some regions have achieved progress in the reduction of poverty, this process has not been uniform and in some countries the number of people living in extreme poverty continues to increase. According to the World Bank, increased food

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[1] A great number of resolutions relating to extreme poverty have been adopted by the General Assembly and the former Sub-Commission on the Promotion and Protection of Human Rights. Many of these resolutions were adopted prior to the establishment of the mandate of the independent expert by the former Commission on Human Rights. For General Assembly resolutions, see, in general, resolutions 52/134, 55/106 and 57/211; on the observance of an international day for the eradication of poverty, see resolution 47/196; on the International Year for the Eradication of Poverty, see resolution 48/183; on the observance of the International Year for the Eradication of Poverty and the proclamation of the first United Nations Decade for the Eradication of Poverty, see resolution 50/107; on the implementation of the final United Nations Decade for the Eradication of Poverty (1997-2006), including the proposal to establish a world solidarity fund for poverty eradication, see resolution 56/207; and on the implementation of the Second United Nations Decade for the Eradication of Poverty (2008-2017), see resolution 62/205. For resolutions of the former Commission on Human Rights, see E/CN.4/RES/2000/12; E/CN.4/RES/2001/31; E/CN.4/RES/2002/30; and E/CN.4/Sub.2/1996/2. For resolutions of the former Sub-Commission on the Promotion and Protection of Human Rights, see E/CN.4/SUB.2/RES/2001/8; and E/CN.4/SUB.2/RES/2002/13.

[2] There are several reliable studies in this direction, see, for example, a research carried out for the World Bank by the economist Branko Milanovic, *An even higher global inequality than previously thought*, 28 December 2007.

[3] See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 1* (A/62/1).

and fuel prices over the past two years may push 100 million people into poverty, reversing the gains of the last decade.[4]

4. Existing estimates indicate that children and women are the most severely affected by poverty. According to the *State of the World's Children, 2006*, poverty is a root cause of high rates of child morbidity and mortality. Over 1 billion children are severely deprived of at least one of the basic goods or services that would allow them to survive, develop and thrive.[5]

5. Eliminating extreme poverty is clearly an important and pressing human rights issue. States have legal obligations towards people living in extreme poverty that relate to a whole range of civil, economic, political, cultural and social rights.

6. The new independent expert, Ms. Magdalena Sepúlveda Carmona, took up her mandate on 1 May 2008 and has engaged since then in informal consultations in order to define and elaborate her priorities and activities for the initial period of her mandate. In the present report, she describes the existing conceptual framework and the main concerns that will guide her work and activities during her tenure, and also sets out a proposed preliminary set of actions and makes reference to collaboration with stakeholders and dissemination activities. The report concludes with a brief reference to the issue that will be the main focus of the expert's work during the period 2008-2009.

II. The mandate of the independent expert

7. In line with Human Rights Council resolution 8/11, the activities of the independent expert will focus on the following:

(a) Further examine the relationship between the enjoyment of human rights and extreme poverty;

(b) Identify alternative approaches to the removal of all obstacles, including institutional ones, at the regional, national and international, public, corporate and societal levels, to the full enjoyment of human rights for all people living in extreme poverty;

(c) Identify, including in cooperation with international financial organizations, the most efficient measures taken at the national, regional and international levels to promote the full enjoyment of human rights of persons living in extreme poverty;

(d) Make recommendations on how people living in extreme poverty can participate in the process towards the full enjoyment of their human rights and the sustainable improvement of their quality of life, including through empowerment and resource mobilization at all levels;

(e) Develop cooperation with other United Nations bodies dealing with human rights and that are also active in the fight against extreme poverty;

[4] World Bank, *The Global Food Crisis Response Program*, Food and Energy Price Briefing, 9 July 2008.

[5] UNICEF, *The State of the World's Children, 2006*, Excluded and Invisible, 2006.

(f) Participate in the assessment of the implementation of the Second United Nations Decade for the Eradication of Poverty, the internationally agreed goals contained in the Millennium Declaration, the Monterrey Consensus,[6] adopted by the International Conference on Financing for Development in March 2002, and the Plan of Implementation of the World Summit on Sustainable Development;

(g) Work on the impact of discrimination on extreme poverty, bearing in mind the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

(h) Pay particular attention to the situation and empowerment of women in extreme poverty, applying a gender perspective in his or her work;

(i) Pay particular attention to children living in extreme poverty, as well as to the most vulnerable groups, including persons with disabilities who live in extreme poverty;

(j) Submit recommendations that could contribute to the realization of the Millennium Development Goals, and in particular of goal 1, which consists in the halving by 2015 the proportion of people whose income is less than 1 dollar a day and the proportion of people who suffer from hunger, taking into account the role of international assistance and cooperation in reinforcing national actions to reduce extreme poverty;

(k) Continue participating in and contributing to relevant international conferences and events with the aim of promoting the reduction of extreme poverty.

8. Human Rights Council resolution 8/11 calls upon Governments to cooperate with and assist the independent expert and it invites relevant United Nations agencies, funds and programmes, treaty bodies and civil society actors, including non-governmental organizations and private sector actors, to cooperate fully with the independent expert in the fulfilment of her mandate. The resolution further requests the Office of the United Nations High Commissioner for Human Rights to give high priority to the question of the relationship between extreme poverty and human rights and to cooperate fully with the independent expert.

III. Conceptual framework: the relationship between human rights and extreme poverty

A. The definition of poverty

9. In 2001, the Committee on Economic, Social and Cultural Rights defined poverty as "a human condition characterized by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights".[7]

10. The former independent expert on the question of human rights and extreme poverty, Dr. Arjun Sengupta, devised a useful working definition of extreme poverty

[6] (A/CONF.198/11, chap. I, resolution 1, annex).

[7] See E/C.12/2001/10, para. 8.

as "the combination of income poverty, human development poverty and social exclusion".[8] This definition not only takes into account the multidimensional nature of extreme poverty, in terms of its causes, manifestations and consequences, but it also reflects the indivisibility, interdependence and interrelatedness of all human rights. Although the definition recognizes that lack of income is a key characteristic of extreme poverty, it also acknowledges that from a human rights perspective, poverty is not limited to economic deprivation but also implies significant social, cultural and political deprivation.[9]

B. The relationship between human rights and extreme poverty

11. While there appears to be agreement that poverty constitutes a denial of human dignity[10] more work is required in order to further analyse and advance the empirical links between human rights and extreme poverty. Taking into account the work that has already been done on the issue by other human rights mechanisms and bodies, the independent expert notes that human rights and extreme poverty are linked in at least three ways:

(a) Poverty can be both a cause and a result of human rights denials. In other words, while the non-fulfilment of human rights often causes poverty, poverty in many cases is a cause of human rights violations;[11]

(b) The realization of all human rights and efforts to eliminate extreme poverty are mutually reinforcing. The protection of human rights is instrumental to the reduction of extreme poverty. All efforts to eliminate poverty must be based on human rights;

(c) Human rights norms and principles provide the framework for poverty reduction and/or eradication. The human rights framework imposes legally binding obligations (primarily on States but also on other actors) that guide poverty eradication efforts. A human rights approach will not necessarily prescribe the precise policy measures required, as States have the discretion to formulate the poverty reduction policies which are most appropriate for their circumstances.

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[8] See A/HRC/7/15, para. 6.

[9] See Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23), in particular paras. 14 and 25; the Copenhagen Declaration on Social Development adopted by the World Summit for Social Development on 12 March 1995; the 2002 Johannesburg Declaration on Sustainable Development adopted by the World Summit on Sustainable Development in 2002 (United Nations Publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 1, annex, paras. 3, 7, 11 and 21; and the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001 (A/CONF.189/12 and Corr.1, chap. I), para. 18.

[10] See, for ex., the Vienna Declaration and Programme of Action, Article I-25 (A/CONF.157/23), the United Nations Millennium Declaration (General Assembly resolution 55/2), para. 11; and a number of General Assembly resolutions, such as resolutions 47/196 and 61/157.

[11] See, for ex., General Assembly resolutions 60/209 and 61/157. Similarly, on the occasion of the Human Rights Day in 2006, 37 special procedures mandate holders recognized in a public statement that "poverty is often a cause, as well as a result, of a complex system of human rights denials, in which violations of civil, cultural, economic, political, and social rights interact and mutually reinforce each other, with devastating effects" (see "States Must Address Poverty with Utmost Urgency, says United Nations Independent Experts on the Occasion of Human Rights Day", 8 December 2006).

However, a human rights approach does require that States take their international human rights obligations into account when formulating policies and other initiatives related to the reduction and/or the elimination of poverty. These legally binding obligations refer to the final outcome as well as to the process that is used. While resource constraints oblige policymakers to balance alternative goals, a human rights approach imposes certain conditions on policymakers and dictates that they must prioritize those goals and processes which protect people living in extreme poverty against measures that undermine their fundamental human rights. International human rights law, when applied to the area of the reduction and/or elimination of poverty, requires States to ensure that each and every policy or initiative protects and promotes the rights of people living in poverty. In addition, a human rights approach imposes a duty to ensure that the rights of people living in poverty and their concerns are prioritized when any policy or other initiative is formulated and implemented. International human rights law, therefore, does not negate, but it narrows, the discretion of States and other entities to formulate policy.

C. The added value of a human rights approach to extreme poverty

12. The added value of a human rights approach to extreme poverty has been recognized on numerous occasions by various United Nations bodies. Of particular importance was the establishment of this mandate by the Human Rights Council as well as the numerous resolutions that link human rights and extreme poverty.[12] Through various actions and resolutions, the Human Rights Council, the former Commission on Human Rights and the General Assembly have firmly placed poverty onto the mainstream human rights agenda.

13. In this report, the independent expert stresses the following advantages of taking a human rights approach to extreme poverty:

(a) Building consensus and strengthening legitimacy: human rights standards, as set out in the major international treaties and in domestic legislation, are a set of universally agreed values that impose legal obligations upon States; a human rights approach assists in building social consensus at the national, regional and international levels to support policies and interventions that aim to reduce and/or eliminate extreme poverty; at the same time, a human rights approach adds legitimacy as it refers to a universally accepted set of norms;

(b) Empowering those living in poverty and making them visible: a human rights approach is in essence about empowering vulnerable and disadvantaged groups; the focus on rights and obligations helps identifying who is entitled to make claims and who has a duty to take action and thereby empowers those who have legitimate claims to rights; while people living in extreme poverty may remain largely invisible to policymakers, a human rights approach facilitates their visibility because it requires that people are given a voice; a human rights approach requires direct interventions that aim to protect people living in extreme poverty;

(c) Providing guidance on the design, implementation and evaluation of public policies aimed at the reduction and/or elimination of poverty: human rights standards provide a normative framework that assists States in designing and implementing policies to reduce poverty; public policies must, furthermore, be

[12] See, for ex., General Assembly resolution 61/157 and Human Rights Council resolution 8/11.

compatible with human rights and should under no circumstances adversely affect the rights of any person.

D. Adopting human rights norms and principles when combating poverty

14. The human rights framework imposes a variety of legal obligations upon States and other actors. Compliance with these obligations is crucial for the protection of people living in extreme poverty and for preventing, managing and overcoming their vulnerability.

15. Due to the indivisibility and interrelatedness of human rights, all human rights are relevant to extreme poverty. Many human rights such as the right to fair and equal remuneration at work, the right to social security, the right to education, the right to health and the right to an adequate standard of living provide a legal framework that not only protect those living in poverty but are also crucial to reducing vulnerability to poverty and the capability to overcome it.

16. Internationally recognized human rights not only narrow the discretion of the State in regard to policy choices, but they also establish a minimum level of protection that States are legally obligated to provide. For example, while full compliance with economic, social and cultural rights requires progressive undertakings, the Committee on Economic, Social and Cultural Rights has identified minimum essential levels for the protection of several human rights (e.g. the rights to food, education, work, health, and water). These minimum essential levels of protection represent the core content of rights and States are under a legal obligation to ensure that these levels are immediately achieved. From a human rights perspective, therefore, in order to comply with their international obligations both developed and developing States must ensure that at least the minimum level is protected in order to comply with their international obligations. When taken together, these obligations establish an international minimum threshold that all social and public policies must be designed to meet.[13]

17. A number of civil and political rights are also crucial for the eradication of extreme poverty. For example, in order for people living in poverty to be protected and their situation improved, special attention must be paid, inter alia, to the right to recognition as a person before the law, the right to equality before the law and equal protection of the law, including with regard to access to public services, the prohibition of torture and other ill treatment, freedom from arbitrary arrest or detention and the right to access to justice and an effective remedy. Also of great importance are the rights which are closely related to the right to participation in public life, such as freedom of expression, freedom of assembly, freedom of association, the right to vote and to be elected, the right to form and join trade unions and freedom of information.[14]

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[13] See statement adopted by the Committee on Economic, Social and Cultural Rights on 4 May 2001 on Poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

[14] For further analysis on the rights related to participation, see paras. 21-23 of the present report.

18. All human rights are valuable in and of itself, but when all of them are taken together they are instrumental for ensuring the necessary conditions for meaningful and informed participation of people living in poverty in decision-making processes.

19. Addressing poverty from a human rights perspective also means that fundamental human rights principles must be taken into consideration in the design, implementation and evaluation of policies to eliminate or alleviate poverty. In this regard, the independent expert intends to formulate a set of recommendations that provide guidance as to how the principles of equality, non-discrimination, participation, transparency, access to information and accountability can be best incorporated into public policies and other relevant initiatives.[15] A strong gender perspective will be incorporated into the recommendations.

20. Equality and non-discrimination are fundamental principles that underpin the protection of human rights. It is frequently acknowledged that poverty disproportionately affects members of socially disadvantaged groups, including certain ethnic or religious groups, indigenous peoples, women, children, persons with disabilities and elderly people, as these groups are subject to increased vulnerability due to various forms of discrimination. Poverty frequently originates from discriminatory practices, both those that are overt and those that are covert. Furthermore, those living in poverty are also subject to discriminatory attitudes and stigmatisation simply because they are poor.[16] A human rights approach requires the elimination of any laws or practices which foster discrimination against individuals and groups and it requires that more resources be devoted to those activities that have the greatest potential to benefit people living in extreme poverty. Human rights obligations also require States to adopt specific measures to eliminate the socio-cultural, political and legal barriers that perpetuate poverty.

21. A human rights approach also requires effective and meaningful participation of those living in extreme poverty. The principle of participation must be understood not just as a means to an end but rather as a fundamental human right that must be realized in its own right — that to take part in the conduct of public affairs.[17]

22. Effective and meaningful participation by people living in poverty requires that a broad set of rights are respected, protected and fulfilled, including freedom of expression, freedom of assembly, freedom of association and the right to vote and to be elected (see para. 18 above). In practice, this requires the establishment of specific mechanisms and arrangements at different levels to ensure that there are ways in which those living in poverty have a voice and play an effective part in the life of the community.

23. The principle of participation requires more than just sporadic, pro forma mechanisms for the participation of people living in poverty. A degree of influence on the decision-making process must be ensured. Thus, top-down approaches may be questionable from a human rights perspective. The principle of participation requires that concerted efforts must be made to ensure that participation is

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[15] Office of the High Commissioner for Human Rights, *Human Rights and Poverty Reduction: A Conceptual Framework*, 2004; ibid., *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, 2006.

[16] See A/HRC/Sub.1/58/16, para. 12.

[17] See, for ex., the International Covenant on Civil and Political Rights, General Assembly resolution 2200 (XXI), annex, article 25 a).

pluralistic and that there is fair representation of individuals and groups without discrimination in terms of gender, ethnicity, age, race, cultural identity, etc.

24. Corruption has a severely detrimental impact on the lives of people living in extreme poverty. Corruption not only reduces the net income of those living in poverty but it also distorts policies, programmes and strategies that aim to meet their basic needs. A human rights approach emphasize transparency and access to information, two vital safeguards against corruption. Corruption is unlikely to flourish where there are legal instruments and independent mechanisms that protect access to information, freedom of expression and participation. People living in extreme poverty often lack access to crucial information, for example relating to social services, job opportunities or about new agricultural techniques. The lack of access to such information increases the vulnerability of people living in extreme poverty. A human rights approach demands increased access to information for the poorest through a broad spectrum of initiatives in the public and the private spheres.

25. A human rights approach also demands accessible and effective mechanisms of accountability. From a human rights perspective people should be able to demand and claim their rights, seek redress and ensure accountability. Policymakers and others whose actions have an impact on the rights of people living in poverty must be held accountable. Social programmes must include legal and administrative arrangements to allow individuals to have access to transparent and effective mechanism for redress where necessary and appropriate.

26. The independent expert wishes to emphasize that while some of these principles and methods are no different from those evoked as good practices within the context of development, human rights norms are compulsory for States. A human rights approach does not pretend to be a panacea for poverty reduction or an alternative to the development approach. Taking a human rights approach reinforces other efforts and provides mutual strengthening. As noted by the Committee on Economic, Social and Cultural Rights, "anti-poverty policies are more likely to be effective, sustainable, inclusive, equitable and meaningful to those living in poverty if they are based upon international human rights".[18]

IV. Main areas of concern

27. People living in extreme poverty need stronger support from States, civil society and from the international community. They require specific and urgent attention. In every area of policy, from trade negotiations to technical assistance and debt relief, States must advance the interests of those living in poverty.

28. Several challenges that we face today, such as the current food price crisis, the HIV/AIDS pandemic, armed conflict and post-conflict reconstruction and peacebuilding, climate change, natural disasters and demographic changes have a disproportionately negative impact on those living in extreme poverty. The preliminary consultations undertaken by the independent expert, have drawn her attention to the areas of concern below.

[18] See E/C.12/2001/10, para. 13.

A. The impact of discrimination and social exclusion

29. People living in poverty are typically victims of discrimination on grounds such as birth, property, national and social origin, race, colour, gender and religion. Patterns of discrimination keep people in poverty which in turn serves to perpetuate discriminatory attitudes and practices against them. In other words, discrimination causes poverty but poverty also causes discrimination.

30. As a result, promoting equality and non-discrimination is central to tackling extreme poverty and promoting inclusion. Measures to eliminate poverty and efforts to eliminate all forms of discrimination must be understood as mutually reinforcing and complementary.

31. Discrimination may also be a major barrier that prevents access to essential services by certain groups of people, for example, migrants, ethnic and racial minorities, refugees and internally displaced persons, women, persons living with HIV/AIDS, persons discriminated on the grounds of gender identity, stateless persons and persons with disabilities. Discriminatory laws, policies and practices may mean that these groups are also denied the enjoyment of other rights such as the right to work, the right to adequate housing and the right to highest attainable standard of health.

32. Throughout her work, the independent expert will identify programmes that aim to combat social exclusion and which promote active and meaningful participation of all individuals and groups. Particularly relevant in this regard is an examination of social policies that take into account the rights of indigenous peoples — and their perspectives on poverty and wealth — that allow for their free and informed preliminary consent in policies affecting them.

33. The devastating impact of the combination of extreme poverty and discrimination on various grounds are frequently hidden due to poor data collection relating to the situation of marginalized individuals and populations. In this sense, the independent expert will advocate for the establishment of comprehensive and reliable data-collection systems that provide disaggregated data on different groups as a prerequisite for the design and evaluation of measures to combat poverty as well as those aiming to eliminate related discrimination.

B. The impact of extreme poverty on women, children and persons with disabilities

34. The majority of people who live in poverty are women.[19] This is because of gender discrimination which limits opportunities to access education, land, credit and other productive assets. Similarly, women often receive lower remuneration than men for work of equal value in both the formal and informal sectors. Often, because women are primary caregivers of children and older adults, they have more difficulty in seeking remunerative work outside the home. Violence often also affects women's ability to access certain jobs and limits the ability to choose when and whether to have children.

[19] United Nations Development Programme, *Human Development Report — Gender and Human Development*, 1995.

35. While women are overrepresented in the poorest segments of society, at the same time they are regularly underrepresented in decision-making bodies and processes. All efforts to eliminate extreme poverty must take into account the multifaceted nature of discrimination that women suffer that is a result not only of their gender but also of other factors such as race, ethnicity, disability, class, caste, sexual orientation, age and national origin. Through her work, the independent expert will pay particular attention to women's access to property and land rights, equality in inheritance rights and reproductive health. In this regard, the independent expert will seek to contribute to increasing awareness of the many legal obligations that States have assumed to realize gender equality through a variety of international and regional human rights treaties such as the Convention on the Elimination of All Forms of Discrimination against Women.

36. Extreme poverty also affects children in a different way than it does adults. A recent study by UNICEF highlights that: (1) poverty affects children not only in the immediate present, but also in the longer term, having a cumulative impact on their evolving capacities; (2) children differ from adults in that they can usually do little themselves to improve their situations — they rely on actions and decisions made by their families, society and the State; and (3) children are particularly dependent on public policies to provide the conditions they need to grow out of poverty, in particular, access to health, social welfare and educational services.[20]

37. Child poverty undermines the capacity of children to survive, develop and thrive. Poverty widens social, economic and gender disparities that in turn prevent children from enjoying equal opportunities and it undermines family and community environments, leaving children vulnerable to exploitation, violence and discrimination. Poverty in childhood is also a root cause of poverty in adulthood.

38. The independent expert will examine and raise awareness of the specific impact of extreme poverty on children. She will seek to ensure that, in accordance to the Convention on the Rights of the Child, the best interest of the child is taken into consideration when initiatives to eliminate extreme poverty are being formulated and implemented. The mandate holder will also seek to identify ways in which children can, where appropriate, participate in the formulation and implementation of measures that aim to eradicate and eliminate poverty where such measures directly affect their lives.

39. People living in extreme poverty are more vulnerable to becoming disabled because of aggravating factors, such as malnutrition, lack of or inappropriate housing, hazardous occupations, and heightened exposure to violence. For example, many millions of people are disabled because of poliomyelitis which can be prevented through immunization.

40. Likewise, persons with disabilities tend to become or remain impoverished because they are denied the right to work, social security, and access to health care. Often, persons with disabilities and their families are more exposed to poverty due to the cost of rehabilitation. In addition, when they are living in extreme poverty, they are disproportionately impacted by discrimination and social exclusion. They are often denied the enjoyment of other human rights including the rights related to participation.

[20] UNICEF, Innocenti Social Monitor 2006, *Understanding Child Poverty in South-Eastern Europe and the Commonwealth of Independent States*.

41. The independent expert will raise awareness of the disproportionate impact of poverty on persons with disabilities. She will advocate for the implementation of measures aimed at the protection of all of their human rights. The independent expert will contribute to raising awareness on the related legal obligations that States have assumed through international treaties, in particular the Convention on the Rights of Persons with Disabilities and its Optional Protocol. She will also promote the ratification by States of both treaties.

C. The lack of meaningful participation of people living in poverty

42. Extreme poverty cannot be eradicated or reduced if the experience of those living in extreme poverty continues to be ignored. The needs of people living in extreme poverty can only be understood if there are ways to ensure that their voices are heard and properly considered when decisions are made.

43. Too often, when participation is envisaged, the participatory process is not meaningful. Participation is often pro forma or reduced to mere consultation which does not actually enable people living in extreme poverty to have any meaningful impact on decisions. Frequently, the process is hijacked by local elites and it excludes women and other groups marginalized even among those living in poverty.

44. While the participation of people living in poverty is crucial, marginalization and discrimination frequently prevent them from engaging meaningfully in participation processes. Meaningful participation requires that the various stakeholders (State, private sector actors and civil society) take measures to build the capacity of those living in poverty to participate and engage in policy debates, explore policy solutions and claim their rights.

45. The independent expert will seek to identify and promote measures aimed at building the capacity of people living in poverty to be represented both inside and outside the government. She will encourage States to adopt the necessary normative and institutional measures and processes to ensure that people living in poverty are not passive recipients of policies and interventions. She will, in particular, seek to identify successful strategies to promote participation (e.g. participatory budgeting process) and outline some of the obstacles that impede the meaningful participation of people living in extreme poverty.

D. The impact of public policies and interventions on people living in extreme poverty

46. Despite good intentions, sometimes social programmes and interventions that aim to eliminate or reduce poverty may not fully comply with human rights and may result in violations of specific rights. In other cases, policies and other interventions simply do not reach the poorest of the poor or those suffering multiple forms of discrimination. From a human rights perspective, social policies must prioritize people living in extreme poverty. In this regard, while economic growth is crucial for reduction of poverty, it is not sufficient in itself. A trickle-down effect is not sufficient for the protection of those living in extreme poverty. Thus, the human rights framework plays a supporting role ensuring that public policies actively address extreme poverty.

47. During her mandate, the independent expert will encourage policymakers to ensure that their policies, social programmes and interventions aimed at reducing or eliminating poverty (subsidies, food aid, social assistance, transfers of resources and services, etc.) are compatible with fundamental human rights norms and that they are formulated and implemented from a human rights perspective.

48. To this end, the expert will assess the human rights impact of national, regional and international policies, programmes and other interventions with the aim of identifying both the positive and negative impacts of these initiatives on the human rights of those living in extreme poverty. A key element of this work will be an assessment of the extent to which the most marginalized groups and individuals who are living in extreme poverty are given priority.

49. The independent expert will further develop recommendations that aim to illustrate how to strengthen the protection and promotion of the rights of persons living in extreme poverty. This will involve identifying the obstacles that prevent those living in extreme poverty from realizing the full enjoyment of their human rights and it will require identification of the obstacles faced by States in implementing various initiatives, from lack of appropriate resources to problems in the capacity to implement them. This assessment by the mandate holder will not only consider the final outcomes of policies and other initiatives but it will also involve an assessment of the processes used.

50. Where possible, this evaluation will be conducted in conjunction with country visits. The visits will allow the expert to engage in dialogue with a broad range of stakeholders involved in the design, implementation and evaluation of specific programmes as well as their intended beneficiaries.

51. Country visits and direct dialogue with a range of stakeholders will enable the independent expert to conduct a more refined and in-depth analysis and, importantly, it will permit the development of concrete action-oriented recommendations. They will also facilitate the identification of the main challenges that prevent the elimination of poverty and the identification of best practices relating to the protection and promotion of the rights of those living in poverty.

52. In this regard, the first assessment by the independent expert will be of cash transfer programmes, in particular conditional cash transfer programmes from a human rights perspective with a view to analysing the relationship between specific programmes and the enjoyment of the rights of those living in extreme poverty (see sect. VII below).

E. Lack of awareness of poverty as a human rights issue

53. While international human rights treaties do not explicitly include the term "poverty" nor explicitly provide for a right to be free from poverty, the convergence between the realization of human rights and the alleviation and eradication of poverty underpins many international and regional human rights instruments.[21]

[21] For ex., the third preambular paragraph of the International Covenant on Economic, Social and Cultural Rights states: "Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights" (General Assembly resolution 2200 (XXI), annex).

54. A human rights approach to extreme poverty is a relatively recent undertaking which has generated animated debate. It requires, however, further support. The independent expert will seek to support efforts to integrate human rights into various initiatives to alleviate and eliminate extreme poverty. She will systematically raise awareness of the human rights dimensions that should be considered for any policy or intervention for the eradication of poverty called to her attention.

55. As set out above, over the years, international, regional and national human rights bodies have increasingly elaborated the scope and content of human rights obligations. Nevertheless, additional work is required in order to ensure that all relevant human rights (civil, political, economic, social and cultural) are applied in the context of extreme poverty. Through further examining the relationship between human rights and extreme poverty, the independent expert will promote and contribute to the incorporation of human rights into poverty reduction initiatives and technical assistance.

56. The draft guiding principles on extreme poverty and human rights, prepared by the Sub-Commission on the Promotion and Protection of Human Rights, in 2006, are another important step towards recognizing the multifaceted problems faced by those living in situations of extreme poverty and raising awareness of the relevant human rights implications. The mandate holder will actively engage in the consultative process on the guiding principles as well as in a seminar which will be convened by the Office of the High Commissioner for Human Rights in accordance with Human Rights Council resolution 7/27.

57. A number of political commitments have been made which underline the shared international responsibility for poverty reduction and the need for a partnership between developed and developing countries against extreme poverty.[22] While these promises are not always kept,[23] the independent expert would like to stress that the obligations to provide international assistance and cooperation are not only of a moral or political character but also have a basis in international human rights law. For example, a number of provisions found in international human rights treaties, inter alia, articles 2.1 and 11 of the International Covenant on Economic, Social and Cultural Rights and article 4 of the Convention on the Rights of the

[22] These commitments include, inter alia: the Declaration on the Right to Development (1986) (General Assembly resolution 41/128); the Millennium Declaration (2000) (General Assembly resolution 55/2); the Doha Declaration issued at the Fourth Ministerial Conference of the World Trade Organization in 2001 (WT/MIN(01)/DEC/1); the Monterrey Consensus of the International Conference on Financing for Development (2002) (United Nations publication, Sales No. E.02.II.A.7, chap. I, resolution 1, annex); and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development (2002) (United Nations publication, Sales No. E.03.II.A.1 and Corrigendum, chap. I, resolution 2, annex). Goal 8 of the Millennium Development Goals sets out the clear need for a global partnership to address the current inequities in the global trading system, the necessity of addressing the problem of debt and ensuring that advancements in technology and science benefit all countries.

[23] For ex., according to the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD-DAC), in 2006 there was a fall in real terms of the official development assistance (ODA) provided by the countries members to the OECD: see, *Final ODA flows in 2006* (DCD/DAC/RD (2007) 15/RD2 of 10 December 2007). In contrast, according to the Stockholm International Peace Research Institute (SIPRI), the world military expenditure is estimated to have increased 6 per cent in real terms over 2006, i.e. an increase of 45 per cent since 1998. See, SIPRI Yearbook 2008, *Armaments, Disarmament and International Security*, available at http://www.sipri.org/.

Child)[24] impose legally binding obligations upon States. The independent expert will work to further analyse the scope and content of international assistance and cooperation obligations as they relate to the reduction and elimination of extreme poverty.

58. There is a lack of awareness of the human rights problems faced by people living in poverty in situations of armed conflict and in its aftermath. As in other circumstances, they can be disproportionately affected by fighting and displacement. For example, when fighting erupts those living in extreme poverty are usually unable to relocate to safe areas due to a lack of financial resources and they are forced to remain in, or are displaced to, dangerous areas that lack basic food, medical and social welfare services. The independent expert will work to further clarify the links between armed conflict and the enjoyment of human rights by people living in extreme poverty.

V. Cooperation with stakeholders and relevant partners

59. Eliminating poverty requires multifaceted initiatives that combine expertise in various fields of knowledge as well as the adoption of a multidisciplinary approach. The independent expert will, therefore, seek to establish a dialogue with a broad range of stakeholders.

60. In recent decades, a range of organizations have generated a considerable body of knowledge related to poverty reduction policies. The independent expert will identify and share examples of good practices in the reduction and eradication of extreme poverty that take human rights principles and norms into account. While poverty reduction policies need to be context-specific, a comparative approach will enable policymakers to identify appropriate solutions based upon prior experience and best practice.

61. The mandate of the independent expert could contribute to the collection and exchange of knowledge and experience between those working for the elimination of poverty and those working for the protection and promotion of human rights. The expert will also take advantage of existing networks in order to disseminate findings and foster a human rights approach to the elimination of poverty. Thus, cooperation

[24] See General Assembly resolution 2200 (XXI), annex, International Covenant on Economic, Social and Cultural Rights, article 2.1: "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures"; ibid., article 11.1: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent". See also General Assembly resolution 44/25, annex, Convention on the Rights of the Child, article 4: "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation".

with a number of stakeholders at global, regional, national and local levels will be an ongoing concern.

62. More specifically, the independent expert will seek the active involvement of the partners mentioned below.

A. International and regional human rights mechanisms and bodies

63. Extreme poverty is a concern for a number of human rights bodies and mechanisms at the international and regional levels. These mechanisms have identified violations of the rights of people living in extreme poverty and they have set out the relevant steps necessary to ensure a rights-based approach to address their plight. In particular, those bodies and mandate holders dealing with economic, social and cultural rights have on numerous occasions addressed human rights violations that have an impact on those living in extreme poverty.[25]

64. Hence, the independent expert will draw upon the existing expertise of human rights bodies, in particular the United Nations treaty bodies such as the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on Migrants Workers and the Committee on the Rights of Persons with Disabilities.

65. The independent expert will also seek to closely cooperate with other relevant special procedures of the Human Rights Council. A compilation of relevant considerations on extreme poverty by United Nations bodies will be prepared by the expert.

66. Regional mechanisms for the protection and promotion of human rights are equally relevant partners. Regional bodies and mechanisms are often well placed to provide a better understanding of national and regional specificities and contexts. The African Commission on Human and Peoples' Rights, the European Committee of Social Rights and the Inter-American Commission on Human Rights are relevant in this regard and are ideally placed to collaborate with the mandate in the dissemination of concepts and materials.

B. Funds, programmes, specialized agencies, regional organizations and other intergovernmental bodies

67. The independent expert will seek to cooperate with the various United Nations funds, programmes and agencies directly sponsoring and monitoring initiatives to

[25] The Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights often express their concerns over the persistence of poverty among women, children and the lack of sufficient data. See, for ex., CEDAW/C/KOR/CO/6 (2007), para. 31; CRC/C/15/Add.267 (2005), para. 61; CRC/C/SWZ/CO/1 (2006), para. 57; E/C.12/1/Add.107 (2005), para. 98; and E/C.12/1/Add.102 (2004), para. 33. Often special procedures refer to the rights of those living in poverty: see for ex., the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2006/41/Add.3, para. 81) and the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/4/28/Add.3, para. 17).

alleviate the impact of extreme poverty. Among others, the expert will seek to cooperate with the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund, the United Nations Development Fund for Women, the World Health Organization, the World Food Programme, the Office of the United Nations High Commissioner for Refugees, and the International Labour Organization. These partners are ideally placed to provide valuable information on United Nations-led and United Nations-sponsored initiatives which impact on extreme poverty with knowledge and experience necessary to identify challenges and best practice. The independent expert will, in particular, cooperate with, and draw upon, relevant expertise from research centres such as the International Poverty Centre of the United Nations Development Programme and the UNICEF Innocenti Research Centre.

68. International development banks and financial institutions play a central role in the formulation and implementation of global strategies to eliminate poverty and are, therefore, relevant for the fulfilment of the mandate. The independent expert will engage in dialogue with the World Bank, and other regional and national development banks in order to learn of ongoing and planned initiatives and particularly of their work on impact assessments of public policies.

C. Community-based organizations and people living in extreme poverty

69. The independent expert will pay particular attention to developing a dialogue with community-based organizations and grass-roots movements working directly with, or made up of, people living in poverty. She will seek to identify ways in which those living in poverty can be involved and participate in a meaningful and significant way in her own activities, including thorough her involvement in the Social Forum of the Human Rights Council. With the support of community-based organizations, the independent expert will also seek to provide information on her mandate to people living in extreme poverty and disseminate her findings and recommendations in an accessible and timely manner.

D. Civil society actors including non-governmental organizations

70. Non-governmental organizations, academic and research institutions and professional associations and individual human rights defenders often take the lead in the promotion and protection of the rights of people living in extreme poverty. The cumulative knowledge of these individuals and organizations and their role in raising awareness and fostering commitment among key constituencies are central to strengthening the promotion of a human rights approach to measures addressing extreme poverty. Within the non-governmental organizations sector, the independent expert recognizes the expertise of a wide range of different organizations working in diverse fields that have significant experience in the reduction and elimination of poverty. She will, therefore, seek to build partnerships and share knowledge with non-governmental organizations working in different fields, such as development, poverty reduction, human rights, humanitarian assistance and conflict resolution.

E. National human rights institutions

71. In many countries, national human rights institutions provide a key forum for the protection and promotion of human rights. Some national human rights institutions have already responded to the poverty challenge and can play a crucial role by sharing information and expertise in monitoring and advocating measures that alleviate poverty and otherwise affect people living in extreme poverty.

F. Private sector

72. Private sector organizations and entities that support social responsibility initiatives have a key role to play in the reduction and elimination of poverty. Private sector actors also have a unique and important perspective to share. The independent expert will seek to work with the private sector with a view to identifying initiatives that can contribute to reduce poverty, and assess their integration of a human rights approach.

G. Contribution to specific processes

73. Finally, the independent expert will contribute directly to a number of international processes related to the reduction and elimination of poverty. As set out in resolution 8/11 of the Human Rights Council, the expert will formulate recommendations with a view to contributing to the realization of the Millennium Development Goals. The resolution also calls upon the independent expert to contribute to the assessment of the implementation of the Second United Nations Decade for the Eradication of Poverty.

74. As noted, the independent expert participate in the Social Forum of the Human Rights Council.[26] The Forum should provide a relevant space for liaising with different civil society entities, fostering cooperation and identifying and disseminating best practices. Additionally, as also mentioned above, the expert will continue to be involved in expert consultations on the draft of the guiding principles on "extreme poverty and human rights: the rights of the poor".

VI. Dissemination activities

75. The independent expert will disseminate information about her activities, findings and recommendations primarily through her reports to the Human Rights Council and the General Assembly. Participation in consultations, seminars, academic meetings and other open forums offers an important opportunity for the expert to interact with relevant stakeholders, gather information and disseminate key information on poverty and human rights.

76. The annual reports to the Human Rights Council and the General Assembly will provide information on country visits, consultations, and dialogue with different stakeholders. Where possible, with the support of partners, more accessible versions of the reports with the most relevant findings and recommendations of the

[26] As mandated by resolution 8/11 of the Human Rights Council.

independent expert will be prepared and distributed in order to reach a broader audience, including those working at community level and people living in extreme poverty.

VII. Focus for 2008-2009 — Human rights approach to cash transfer programmes

77. An analysis of cash transfer programmes, in particular conditional cash transfer programmes will be the first theme addressed by the independent expert. The analysis will seek to describe the overall impact of these initiatives on the enjoyment of human rights of people living in extreme poverty and will examine their implementation from a human rights perspective — namely the compliance with the core principles of equality and non-discrimination, participation, transparency and accountability.

78. Cash transfer programmes provide direct financial support targeted to poor or extremely poor households. These programmes consist of cash transfers that are provided to households that commit to certain targets in terms of education, health or nutrition. Increasingly perceived as an effective tool for poverty eradication, these programmes have been implemented in all regions of the world by Governments with the support of international entities.

79. Both conditional and unconditional transfers aim explicitly at bolstering the nutrition, health and education of children of extremely poor families. The transfer of resources is frequently channelled through the female head of the recipient household and there is an explicit concern with their empowerment.

80. Although the central focus is on income — as the main feature of these initiatives consists of the transfer of financial resources — cash transfers address the multidimensionality of poverty and its multiple causes.

81. Conditional cash transfer programmes impose conditionalities that aim at addressing the economic and social challenges faced by those in extreme poverty. They have impact on both the short and long-term dimensions of poverty. The direct distribution of money aims at quickly mitigating the devastating effects of extremely low income. Simultaneously, the definition of conditions related to school attendance, for example, aims at enabling medium-term changes that seek to break the cycle of inter-generational reproduction of poverty.

82. Several studies conducted by national authorities and international organizations already highlight the impact of cash transfer programmes on social and economic indicators. The expert will compile the main findings of these studies in order to describe the impact of these programmes in the human rights situation of people living in extreme poverty.

83. As noted, the analysis will also assess the following aspects: (a) non-discrimination in the procedures utilized to identify and select beneficiaries; (b) participation in all phases of the programme; (c) transparency and access to information; (d) accountability and mechanisms to monitor implementation; (e) accessibility and quality of the services offered to beneficiaries; and (f) when appropriate, the procedures utilized to evaluate the fulfilment of conditionalities by

beneficiaries and the costs and benefits of conditional versus unconditional transfers from a human rights perspective.

84. The independent expert will consider the impact cash transfer programmes have on gender relations, vulnerable and disadvantaged groups such as children, persons with disabilities, indigenous peoples and ethnic minorities. The analysis will also consider institutional obstacles encountered in the implementation of these policies.

85. The preparation of this study depends upon the contribution of entities implementing and evaluating cash transfer programmes in different regions. In particular, international and regional organizations following the replication of conditional and unconditional cash transfer initiatives in different contexts will be invited to share information and contribute to the analysis. Both governmental actors and civil society will also be invited to provide information on their evaluation of existing initiatives. Finally, the expert will also seek to focus on these programmes during her first country visits.

VIII. Conclusions and recommendations

86. **The Human Rights Council requested the newly appointed mandate holder to submit a report to the General Assembly in June 2008, so the independent expert considers premature to present conclusions and recommendations. Therefore, she would like instead to briefly stress the main points of the present report.**

87. **The struggle against poverty is at the heart of many United Nations core documents — from the Charter of the United Nations to the United Nations Millennium Declaration and the Millennium Development Goals. In spite of such commitments and initiatives and great economic growth in many regions, inequalities have grown larger, and poverty continues to undermine the rights and dignity of almost 1 billion people in all regions of the world.**

88. **A human rights approach to poverty reduction and eradication has never been more urgently needed. Through the renewal of mandate on the question of human rights and extreme poverty, the Human Rights Council has reiterated that extreme poverty is not just a question of charity but an important and pressing human rights issue. The Human Rights Council has further underlined the necessity of seeking new and creative ways to combat extreme poverty from a human rights perspective.**

89. **From a human rights perspective, States have numerous legal obligations towards people living in extreme poverty. These legal obligations include those deriving from civil, economic, political, cultural and social rights.**

90. **Addressing poverty from a human rights perspective means placing the principles of equality and non-discrimination, participation, transparency, and accountability at the heart of any action taken. Public policies and strategies as well as the delivery of services to those living in poverty must comply with national constitutions and legal frameworks and also with the legally binding provisions of international human rights law.**

91. While the conceptual framework for understanding the links between human rights and extreme poverty requires further consideration, the work that has already been carried out in the conceptual arena is sufficient guide work on practical efforts that move towards the operationalization of the human rights approach to extreme poverty. A human rights approach to anti-poverty policies prioritizes the potential or actual impact that any policies or initiatives addressing poverty have on the enjoyment, protection and promotion of all human rights. A human rights approach requires an assessment, therefore, of how these policies and initiatives actually contribute to the protection and promotion of rights.

92. A human rights approach is not intended to be a policy panacea nor does it offer a single solution to extreme poverty, or an alternative to development efforts. Rather, a human rights approach foresees mutual strengthening with a view to promoting more comprehensive and legitimate processes, policies, initiatives and practices.

93. Through the exercise of her mandate, the independent expert will seek to formulate pragmatic, action-orientated guidance and recommendations on how the human rights framework can assist and strengthen efforts to eradicate extreme poverty. These practical guidelines and suggestions will allow a wide range of actors including States, international organizations, regional organizations, non-governmental organizations, donors, multinational corporations and the private sector to consider the practical impact of a human rights approach. They will also seek to ensure that the voice of people living in poverty is heard at all levels.

94. Future reports will identify specific recommendations arising from the work of the independent expert, for the consideration of the General Assembly.

United Nations A/63/275

General Assembly

Distr.: General
13 August 2008

Original: English

Sixty-third session
Item 67 (b) of the provisional agenda*
Promotion and production of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Adequate housing as a component of the right to an adequate standard of living

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, submitted in accordance with Human Rights Council resolution 6/27.

* A/63/150 and Corr.1.

08-45956 (E) 120908

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Summary

The present report, submitted in accordance with Human Rights Council resolution 6/27, constitutes the first report to the General Assembly of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

The first part of the report provides an overview of the work of the Special Rapporteur since the creation of the mandate by the Commission on Human Rights. It discusses the definition and the elements of the right to adequate housing and some of the main issues addressed by the Special Rapporteur since the inception of the mandate (including homelessness, affordability, forced evictions, discrimination in accessing adequate housing and the gender perspective), as well as the tools that have been developed to help in the implementation of this right (including questionnaires, indicators and the basic principles and guidelines on development-based evictions and displacement).

In the second part of the report, the Special Rapporteur, while stating her willingness to continue and develop the issues that have been identified by the previous mandate holder, gives her views on how the mandate should go forward and what are the areas to focus on in the coming years.

In the view of the consideration by the General Assembly of the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Special Rapporteur devotes the third part of the report to justiciability of the right to adequate housing based on examples and case law.

Finally, the Special Rapporteur urges States to take a number of immediate measures, including the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights by the General Assembly; the integration of the right to adequate housing in urban planning and housing policies at local and national levels; and the adoption of urgent measures to address the plight of the homeless and in particular to stop their criminalization.

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I. Introduction

1. At its fifty-sixth session, the Commission on Human Rights adopted by consensus resolution 2000/9 of 17 April 2000 in which it decided to appoint, for a period of three years, a special rapporteur whose mandate would focus on adequate housing as a component of the right to an adequate standard of living. The subsequent resolutions of the Commission on the topic (2001/28, 2002/21, 2003/27 and 2004/21) were also adopted by consensus.

2. By its resolution 2002/49, the Commission entrusted the Special Rapporteur with the additional task of preparing a study on women and adequate housing (see para. 18 below).

3. In June 2006, the Commission on Human Rights was replaced by the Human Rights Council pursuant to General Assembly resolution 60/251. On 18 June 2007, the Human Rights Council adopted resolution 5/1, which extended the mandates of its thematic special procedures.

4. In December 2007, the Council reviewed the mandate of the Special Rapporteur on adequate housing. By its resolution 6/27, the Council renewed the mandate by consensus and requested the Special Rapporteur:

(a) To promote the full realization of adequate housing as a component of the right to an adequate standard of living;

(b) To identify best practices as well as challenges and obstacles to the full realization of the right to adequate housing, and identify protection gaps in that regard;

(c) To give particular emphasis to practical solutions with regard to the implementation of the rights relevant to the mandate;

(d) To apply a gender perspective, including through the identification of gender-specific vulnerabilities in relation to the right to adequate housing and land;

(e) To facilitate the provision of technical assistance;

(f) To work in close cooperation, while avoiding unnecessary duplication, with other special procedures and subsidiary organs of the Human Rights Council, relevant United Nations bodies, the treaty bodies and regional human rights mechanisms;

(g) To submit a report on the implementation of the resolution to the General Assembly and to the Council.

5. The present report is submitted in accordance with that request.

II. Overview of the mandate, issues and achievements

6. Since the inception of the mandate, the Special Rapporteur has presented eight thematic annual reports to the Commission on Human Rights and the Human Rights

Council[1] and undertaken 13 country missions[2] as well as one joint visit with three other mandate holders[3]. The Special Rapporteur has been actively engaged with Government, civil society, academics, international and regional organizations and all other relevant actors in the field of adequate housing.

7. The previous mandate holder, Miloon Kothari, adopted an approach stressing the indivisibility of human rights and defined the human right to adequate housing as "the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity" (A/HRC/7/16, para. 4).

8. The elements of the right to adequate housing as defined by the Committee on Economic, Social and Cultural Rights in its General Comments No. 4[4] include (a) legal security of tenure, (b) availability of services, materials, facilities and infrastructure, (c) affordability, (d) habitability, (e) accessibility, (f) location and (g) cultural adequacy. Through his work and consultations the previous mandate holder identified more specific and additional factors that affect the enjoyment of the right to adequate housing, such as:

(a) Access to land, water and other natural resources necessary for survival and livelihood;

(b) Freedom from dispossession, damage and destruction to land, property, homes and resources and livelihood;

(c) Access to information that can impact the right to adequate housing such as potential industrial and natural hazards, infrastructure, planning design or availability of services and natural resources;

(d) Effective participation of individuals and communities in decision-making on issues that affect their right to adequate housing;

(e) Resettlement arrangements that, whatever the cause of displacement, are consensual, fair and adequate to meet individual and collective needs;

(f) Access to domestic legal protection and other remedies;

(g) A safe and secure environment (see also A/HRC/7/16, para. 5).

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[1] E/CN.4/2001/51, E/CN.4/2002/59, E/CN.4/2003/5, E/CN.4/2004/48, E/CN.4/2005/48, E/CN.4/2006/41, A/HRC/4/18 and A/HRC/7/16.

[2] Romania (January 2002, E/CN.4/2003/5/Add.2); the Occupied Palestinian Territory (January 2002, E/CN.4/2003/5/Add.1); Mexico (March 2002, E/CN.4/2003/5/Add.3); Peru (March 2003, E/CN.4/2004/48/Add.1); Afghanistan (September 2003, E/CN.4/2004/48/Add.2); Kenya (February 2004, E/CN.4/2005/48/Add.2); Brazil (June 2004, E/CN.4/2005/48/Add.3); Islamic Republic of Iran (July 2005, E/CN.4/2006/41/Add.2); Cambodia (August 2005, E/CN.4/2006/41/Add.3); Australia (August 2006, A/HRC/4/18/Add.2); Spain (November-December 2006, A/HRC/7/16/Add.2); South Africa (April 2007, A/HRC/7/16/Add.3); and Canada (October 2007, A/HRC/7/16/Add.4).

[3] Joint mission to Lebanon and Israel with the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Representative of the Secretary-General on human rights of internally displaced persons (September 2006, A/HRC/2/7).

[4] www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument.

9. Since the inception of the mandate, the Special Rapporteur has worked on various areas of the human right to adequate housing and formulated recommendations for States, civil societies, international organizations and the international community. The work has mainly focused on the most vulnerable parts of a population. These groups include the homeless; people living in poverty or with low incomes; women; victims of domestic abuse and violence; children and orphans; youth; the elderly; people with disabilities and/or health problems (including people with complex needs such as those affected by HIV/AIDS); individuals and communities in rural and remote areas; minorities; indigenous peoples; internally displaced persons; migrants; and refugees and asylum-seekers.

10. Homelessness, as one of the most visible and severe symptoms of the lack of respect for the right to adequate housing, has been one of the main axes of work (see, for example, E/CN.4/2005/48). This phenomenon touches both developing and developed countries and its causes are diverse and multifaceted. They include a lack of affordable housing, speculation in housing and land, unplanned and forced urban migration and destruction and displacement caused by conflicts, natural disasters or large-scale development projects. Major market crises, including the subprime market crisis that originated in the United States in 2007, apart from their effects on financial market stability worldwide, also tend to increase the number of people living in homelessness and inadequate housing.

11. Although homelessness is the most acute sign of non-respect of the right to adequate housing, a considerable part of the world population lives in precarious and informal settlements, lacking access to basic services and adequate living conditions[5]. The impact of these precarious habitats, not administratively or legally recognized, goes beyond the material and environmental deprivation, preventing their inhabitants from the full enjoyment of a wide range of other human rights, whether civil and political or economic, social and cultural.

12. Affordability constitutes one of the main factors resulting in the violation of the right to adequate housing. In this context, the Special Rapporteur notes with concern that urban "gentrification" processes, accompanied by rising property values and rental rates, and problems in payment of loans and mortgages, are pushing low-income families into precarious situations, including homelessness. The failure of legal systems to protect homeless and landless people across the world is coupled with a tendency to criminalize them and appears to be part of the trend towards increasing violence against them.

13. While the Commission on Human Rights in its resolution 1993/77 recognized forced eviction as a gross violation of human rights, and particularly the right to adequate housing, it continues unabated in every continent. Forced eviction can be defined as acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.[6]

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[5] According to UN-Habitat in its *State of the World's Cities* report for 2006-2007, more than one billion people, one third of the world population, live in precarious settlements.

[6] Basic principles and guidelines on development-based evictions and displacement, A/HRC/4/18, annex I, para. 4; www2.ohchr.org/english/issues/housing/evictions.htm.

14. Despite the work of a range of actors, including treaty bodies, other special procedures, United Nations agencies and programmes and civil society organizations to counter this practice, forced evictions continue to push hundreds of thousands into poverty, homelessness and inadequate housing conditions, with particularly adverse effects on children and groups facing discrimination such as women, indigenous peoples, minorities and migrants, and the socially and economically vulnerable and marginalized sectors of society (see E/CN.4/2004/48 and E/CN.4/2006/41).

15. In order to give States and the international community practical tools to prevent the violation of the right to adequate housing as a consequence of forced evictions due to development projects, the Special Rapporteur presented to the Human Rights Council a set of basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I). These guidelines provide step-by-step guidance before, during and after eviction to ensure respect for human rights in cases where there are no alternatives to eviction. They address various situations including evictions planned or conducted in apparent pursuit of the public good, such as those linked to development and infrastructure projects (including large dams; transportation, large-scale industrial or energy projects; or the development of mining and other extractive industries); land acquisition measures associated with urban renewal, slum upgrades, housing renovation, city beautification or other land-use programmes (including for agricultural purposes); property, real estate and land disputes; or major international business or sporting events. The evictions can have ostensibly environmental purposes and arise from activities supported by international development assistance.

16. The work of the former Special Rapporteur focused in particular on discrimination in relation to the right to adequate housing (see E/CN.4/2003/5). The realization of the right to adequate housing in an environment free from discrimination will have a direct bearing on other congruent human rights, including the right to life, the right to an adequate standard of living, the right to freedom of movement and residence, the right to education and to health, the right to protection against arbitrary or unlawful interference with privacy, family and home and the right to participation in public affairs.

17. Discrimination and segregation in housing can be based not only on race, class or gender but can also result from poverty and economic marginalization. During various country visits, the former Special Rapporteur expressed concern regarding the continued discrimination faced by ethnic and religious minorities and nomadic groups, as reflected in the disproportionately inadequate housing and living conditions of those groups; the considerable number of alleged cases of discriminatory land confiscation and forced evictions; discrimination against women with respect to housing rights, land, inheritance and property; and the poor and limited quantity and quality of basic services provided to low-income groups and neighbourhoods and informal settlements. Forced evictions intensify inequality, social conflict, segregation and "ghettoization" and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society.

18. The mandate of the Special Rapporteur on adequate housing emphasized a gender perspective. By its resolution 2002/49 on women's equal ownership of, access to and control over land and equal rights to own property and to adequate housing, the Commission on Human Rights entrusted the Special Rapporteur with

the additional task of preparing a study on women and adequate housing. For this purpose, the former Special Rapporteur developed a questionnaire to solicit information from States, local authorities and civil society for the preparation of the study and organized seven regional consultations.[7] The result of this work and the main findings stemming from thematic research, country missions, regional consultations and replies to the questionnaire were presented by the Special Rapporteur to the Commission in three reports (E/CN.4/2003/55, E/CN.4/2005/43 and E/CN.4/2006/118). Several obstacles to the effective realization of housing rights for women were identified including violence against women; discriminatory family, personal, cultural and social norms; multiple discrimination; privatization of public housing stocks and unaffordability of housing for women; and the impact of natural disasters, forced evictions and HIV/AIDS on women.

19. Throughout his mandate, the former Special Rapporteur favoured a constructive approach to promote the human right to adequate housing. One of the means used was to develop concrete tools to help in the protection, promotion and implementation of the right to adequate housing, such as the above-mentioned basic principles and guidelines on development-based evictions and displacement.

20. Whether in his thematic reports or country missions, the former Special Rapporteur stressed the importance, as have numerous treaty bodies, of reliable and clear statistics and indicators to assess the progress made by States towards the realization of the right to adequate housing. Many of the more technical issues associated with this right are monitored by the United Nations Human Settlements Programme (UN-Habitat). UN-Habitat has worked out a set of key indicators designed to capture the essential elements of shelter-sector performance in all countries. These indicators emphasize the availability of basic services as an integral component of shelter adequacy. Other relevant factors include price, quantity, quality, supply and demand. Reports from Governments based on these indicators are to be prepared every two years for consideration by the Governing Council of the Programme. Related monitoring of the implementation of a global strategy for shelter is also coordinated by UN-Habitat. This process is designed to monitor action taken and progress made not just by States Members of the United Nations but also by agencies of the United Nations system as well as regional, bilateral and non-governmental actors.

21. While urging States to adopt such measurement tools, the former Special Rapporteur worked on and contributed to the creation of human rights-specific indicators (see for instance, A/HRC/4/18, paras. 3-15). Based on his work and the work undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) at the request of the international human rights treaty

[7] Asia Regional Consultation on the Interlinkages between Violence against Women and Women's Right to Adequate Housing (Delhi, India, October 2003); Latin America and Caribbean Regional Consultation on Women and Adequate Housing (Mexico City, December 2003), Middle East and North Africa Regional Consultation on Women's Right to Adequate Housing and Land (Alexandria, Egypt, July 2004); Pacific Regional Consultation on Women's Rights to Adequate Housing and Land (Nadi, Fiji, October 2004);[1]North American Regional Consultation on Women and the Right to Adequate Housing (Washington, D.C., October 2005); Central Asia/Eastern Europe Regional Consultation on Women's Right to Adequate Housing (Budapest, November 2005); and Mediterranean Regional Consultation on Women's Right to Adequate Housing (Barcelona, Spain, March 2006).

bodies,[8] the Special Rapporteur presented a list of illustrative indicators on the right to adequate housing in his 2007 report to the Human Rights Council (A/HRC/4/18, annex II). Subsequent work, including subregional workshops and consultations at country level, is ongoing. Work has been progressing on the compilation of meta-data on each indicator, whether structural, process or outcome indicators, which are to be reflected in "meta-data sheets", aimed at supporting the use of relevant statistics and at providing detailed information on their definition, rationale, method of computation, primary and secondary sources, level of disaggregation, periodicity, etc. (see A/HRC/7/16, paras. 52-54). The current Special Rapporteur strongly encourages this piloting and sensitization process supporting the development of contextually relevant and feasible statistical information on the implementation of the right to adequate housing at country level and recommends further collaboration with OHCHR and UN-Habitat in this area, including at country level.

III. Moving the right to adequate housing forward: challenges and trends

22. The Special Rapporteur would like to build upon and continue the important work of her predecessor. The Special Rapporteur wishes to acknowledge and commend the previous Special Rapporteur for his outstanding work; she will continue the efforts and activities initiated by him and build on the wealth of research, information and work he produced.

23. Adequate housing has been discussed in many international and specialized forums and has been recognized as an important basic human right. Yet, the existence of the right to adequate housing and its elements are still unknown to many. Although the mandate was fully recognized and extended by the Human Rights Council, its findings, tools and recommendations have not yet been widely disseminated and the human rights dimension of housing has not been incorporated in the work of most professionals, government officials and civil society activists involved in designing and implementing housing and urban and territorial planning policies around the world. This is mainly because the debate on the issue takes place in specialized circles and reports, information and other outcome documents are not easily accessible and understandable for a larger audience, especially right-holders.

24. Considering these challenges, the new Special Rapporteur will make an effort to disseminate to the different actors involved in housing and territorial planning the rights-based approach to housing developed by her predecessor, using different instruments and media.

25. The current mandate holder believes in the close interlinkages between the right to adequate housing and congruent human rights such as those concerning food, water, health, work, land, livelihood, property and security of person, as well as protection against inhuman and degrading treatment, non-discrimination and gender equality. The Special Rapporteur also believes that additional effort to strengthen these rights in national normative and judiciary systems is an important goal.

[8] HRI/MC/2008/3, www2.ohchr.org/english/bodies/icm-mc/docs/HRI.MC.2008.3EN.pdf.

26. In terms of new thematic areas to be explored in the coming years, the Special Rapporteur expects to focus her work on the relation between the organization of mega-events and housing policies, the right to adequate housing in post-conflict and post-disaster reconstruction, the effects of climate change on the right to adequate housing, migration and housing and issues of social inclusiveness, while continuing to develop practical tools to ensure a gender approach to the right to adequate housing.

A. Mega-events

27. The Special Rapporteur is particularly interested in the effect of mega-events, such as the Olympics, the FIFA World Cup or the Commonwealth Games, on the right to adequate housing. Mega-events such as the Olympic Games can be an opportunity to develop cities and infrastructure and potentially enhance the right to adequate housing. However, the organization of mega-events can also result in human rights violations. In the past, there have been many allegations of forced eviction of thousands of people from their homes to make place for infrastructures and city beautifications, sweeping operations against the homeless, increases in housing prices and rents, gentrification and so on. These issues have made organizers realize that embracing sustainability and the necessity to focus on protecting and promoting housing rights at all stages of the mega-events process, from the initial bid phase through the planning and preparation phases and the staging of the event to the post-event legacy.

B. Post-disaster and post-conflict reconstruction

28. The area of post-disaster and post-conflict reconstruction is of particular relevance to the mandate. Whether in natural disasters and their aftermath, or in countries recovering from the scourge of conflict, the need to integrate human rights standards into prevention, relief and rehabilitation efforts has been widely admitted. In many of these situations, the concerns raised include discrimination, not least on the basis of sex, and lack of participation, corruption and delay in the distribution of aid, compensation and reconstruction work. The Special Rapporteur is interested in studying how in practice these concerns have been incorporated in the work of national and international relief agencies, how financial aid and compensation is calculated and distributed and how situations in which there is a lack of secure title to housing and land have been dealt with.

29. A particular concern for the development of the mandate and its contribution to the work of multilateral and bilateral agencies is the existing gap between the humanitarian and the development phases in post-conflict or post-disaster reconstruction. Sometimes refugees or internally displaced persons reside in one place under emergency schemes for many years, consolidating socio-territorial ties in the new, nevertheless provisional settlements, making more complex their resettlement either in their territories of origin or new ones.

30. In this context, the Special Rapporteur welcomes the operational guidelines on human rights and natural disasters [1] developed by the Inter-Agency Standing

Committee,[9] which aim to assist States in developing policies to support persons affected by natural disasters and to protect their human rights and have a stronger human-rights approach, including on women's rights, than the Sphere guidelines.[10]

C. The impact of climate change on the right to adequate housing

31. Climate change and its causes have been largely debated and have lately become a front-line topic. Climate change has already affected millions of the world's poorest people and could result in hundreds of millions of people suffering loss of livelihood and permanent displacement.[11] But little has been said on the actual impact of climate change on human settlements and in particular on adequate housing. Natural disasters, desertification, drought and loss of livelihood lead — and will lead in the future — to increased displacement and force people and communities into distressed housing and living conditions.

32. In its fourth assessment report, the Intergovernmental Panel on Climate Change states with "very high confidence" that human activities since 1750 have caused global warming. For the next two decades, says the Panel, about 0.2 °C of warming per decade is projected.[12] Among the many knock-on effects are a sea-level rise of more than 50 centimetres by 2100. Climate change will have a number of impacts on biodiversity, from ecosystem to species level. The most obvious is the effect that flooding, sea-level rise and changes in temperature will have on ecosystem boundaries, affecting human settlements. Most of the people and enterprises at most serious risk from extreme weather events and rising sea levels are located in urban slums in low-income countries, where there is a combination of high exposure to hazards and inadequate protective infrastructure and services.[13]

33. Human-induced climate change is likely to affect the small low-lying island and coastal states, African nations, Asian mega-deltas and the polar regions. In Asia, Africa and parts of Latin America, it is common for half a city's population to live in informal settlements, lacking piped water supplies, paved roads, sewers, storm drains and household waste collection. Many such settlements are on flood plains or coasts, next to rivers or on unstable slopes, leaving their inhabitants at greatest risk from storms and floods.[14]

34. Increasing water stress and food scarcity in rural areas around the world are accelerating the rural-urban drift. For instance, UN-Habitat estimates that in the rapidly expanding slum settlements of Africa, about one third of slum dwellers have

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[9] www.humanitarianinfo.org/iasc/content/documents/working/OtherDocs/2006_IASC_NaturalDisasterGuidelines.pdf.

[10] www.sphereproject.org.

[11] See United Nations Development Programme Human Development Report 2007/2008; and Intergovernmental Panel on Climate Change fourth assessment report, Working Group II report, "Impacts, adaptation and vulnerability", and synthesis report.

[12] Intergovernmental Panel on Climate Change, Climate Change and Water, June 2008, www.ipcc.ch/ipccreports/tp-climate-change-water.htm.

[13] Hannah Reid and Krystyna Swiderska, "Biodiversity, climate change and poverty: exploring the links", International Institute for Environment and Development, February 2008, www.iied.org/pubs/pdfs/17034IIED.pdf.

[14] Saleemul Huq and Jessica Ayers, "Critical list: the 100 nations most vulnerable to climate change", International Institute for Environment and Development, December 2007, www.iied.org/pubs/pdfs/17022IIED.pdf.

migrated to the cities after being driven off their land by advancing desert frontiers and failing pastoral farming systems due to environmental deterioration and climate change.[15] Factors pulling people to cities include access to the cash economy and improved access to services.

35. Much of the rural to urban movement exacerbates overcrowding in slums of urban centres. Many of the people who move to cities will do so as a result of increasingly inadequate access to sustainable livelihoods, and so will lack the resources to gain access to adequate housing. Those people will tend to be more at risk of the negative effects of climate change in cities; many for instance will be forced to build shelters on hazardous areas such as flood plains on the banks of rivers.

36. A rights-based approach to climate change will underline the principles of participation and empowerment. Populations whose rights are poorly protected are less equipped to understand or prepare for climate change effects, less able to lobby effectively for government or international action and more likely to lack the resources needed to adapt to expected alterations of their environmental and economic situation.[16]

37. Climate change issues have therefore to be considered in urban planning. Disaster and vulnerability reduction should be a feature of urban planning, which should be extended to slum areas and areas of informal settlement. Efforts should be made to ensure that everyone has access to adequate housing in the context of the weather events to which they could be exposed. Basic services, including health, water and sanitation services, should be disaster prepared and able to function adequately during weather events such as floods. There is also a need to construct more hazard-resistant housing for vulnerable communities.

38. A rights-based approach would also ensure that, while affected communities are able to relocate away from hazardous zones (e.g. sinking cities), all efforts are made to ensure adequate and genuine consultation with the communities before any relocation decision is taken. In no circumstances should individuals be subject to forced evictions. A rights-based approach accordingly brings a focus on participation in planning and decision-making and on access to information, as well as accountability.

D. Migrants and housing

39. In an increasingly multicultural world, international migrants contribute significantly to the economic and social development of destination countries. In spite of this, Governments look at migration essentially as a security issue to be handled through the police, and migration laws and admission procedures have steadily been tightened.

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[15] Statement by Executive Director of UN-Habitat to the High-Level Segment of the United Nations Climate Change Conference, www.unhabitat.org/content.asp?cid=5502&catid=550&typeid=8&subMenuId=0.

[16] In the context of climate change, adaptation is taken to mean preparing for the unavoidable and foreseeable effects of climate change, while mitigation is seen as activities that reduce emissions in order to curb climate change. International Council on Human Rights Policy, "Climate change and human rights — a rough guide", 2008, p. vii.

40. At the local level, urban policies rarely include measures to facilitate the integration of migrants. Among such measures, access to housing and services are fundamental, since they address an essential need and represent the basis for full participation in society. Yet, migrants are often discriminated against in the housing market and they are likely to be housed in inadequate locations, in overcrowded conditions and with poor or inexistent facilities. To be effective, housing rights should be accepted at international level and explicitly incorporated into national legislation, and their legal effectiveness should be clearly defined. In fact, Governments often do not enforce the minimum standard of housing rights protection for migrants. In addition, the increasingly tight regulatory measures concerning access to the housing market by migrants recently adopted by many States contrast with the implementation of the right to adequate housing and to non-discrimination in this context.

E. Social inclusiveness

41. Across the world, problems in ensuring the affordability of housing, land and property are responsible for the increasing number of people who are pushed away from well-urbanized and well-located neighbourhoods into inadequate, insecure housing conditions on the periphery. Urban planning directed to creating so-called "world-class cities" rather than controlling speculation and reining in rising rental and home prices through appropriate land management tools have contributed to boosting property prices in cities and diverted land for higher-income groups.

42. The resulting creation of spatially separated settlements for the rich and the poor in urban and rural areas can be defined — as the previous Special Rapporteur described — as "urban and rural apartheid". Slums and squatter settlements arise in part from the colossal gap between supply and demand of affordable housing in well-located land and lead to discrimination, playing a strong role in keeping large groups in poverty and poor living conditions, with little access to opportunities for a better future. The result is fragmented and divided cities, with the erosion of social cohesion.

43. That is why the Special Rapporteur considers it necessary to look into the various issues linked with social exclusion and housing and the available tools and instruments to promote social inclusiveness in and through housing, not only to guarantee better living conditions but also provide greater options to prevent conflict and violence.

F. Other activities

44. The Special Rapporteur will also undertake a systematic assessment of the implementation of recommendations already addressed to States and other relevant actors. For instance, she will follow up on all recommendations identified as the result of country visits that have taken place since the inception of the mandate and continue the dialogue with relevant States on their efforts to implement and realize the right to adequate housing.

45. In this context, the Special Rapporteur reminds States of the recommendations made by the first mandate holder in his reports, in particular the report contained in document A/HRC/7/16, and would be keen to follow up on their concrete

application. The Special Rapporteur would be grateful to members of the General Assembly for providing her with information in this regard.

46. Based on this information and further studies and work, the Special Rapporteur will be in a position to provide States and other relevant actors with useful advice on implementing the right to adequate housing.

47. The Special Rapporteur will also seek, and count on, the cooperation and collaboration of all United Nations agencies, in particular UN-Habitat, and of other international and regional organizations as well as all relevant actors and will seek to integrate them as much as possible in the work of the mandate.

IV. Justiciability of the right to adequate housing

48. One challenge to the implementation of the right to adequate housing that the Special Rapporteur wishes to draw to the attention of the General Assembly is that of ensuring its justiciability. According to a commonly held view, political and civil rights are the only rights that generate prerogatives for the citizens and obligations for the State, as judicially enforceable. Housing, land and property tend to be viewed as marketable commodities rather than as a human right.

49. Access to a remedy in case of violation is an intrinsic feature of the concept of "right". Taking human rights seriously entails the provision of effective remedies and ensuring that alleged violations can be adjudicated by independent bodies — typically courts — capable of declaring that a breach has occurred and of ordering adequate relief.

50. There has, unfortunately, been considerable debate about the justiciability of economic, social and cultural rights in general, including the right to adequate housing. The overall assumption that economic, social and cultural rights are not justiciable has ignored the evidence of almost a century of functioning of labour courts and of abundant case law in such fields as social security, health, housing and education in all regions of the world.

51. Arguments questioning the justiciability of economic, social and cultural rights tend to assume that the content of these rights corresponds to a single formal pattern, with a unique trait that would identify all such rights as members of the same set. Yet, a review of any accepted list of economic, social and cultural rights, for example those enshrined in the International Covenant on Economic, Social and Cultural Rights or in regional instruments, would indeed show the opposite. Economic, social and cultural rights, as well as civil and political rights, are not limited to a single model but encompass a wide variety of aspects: freedoms, State obligations regarding third parties, State obligations to adopt measures or to achieve some result. In fact, the obligation to respect, protect and fulfil human rights means that in practical terms, every human right offers aspects which could be the subject of litigation and judicial adjudication.[17]

[17] See for instance Christian Courtis, "Courts and the legal enforcement of economic, social and Cultural Rights: comparative experiences of justiciability", International Commission of Jurists, Human Rights and Rule of Law Series N° 2, Geneva, 2008; Malcolm Langford and Aoife Nolan, "Litigating economic, social and cultural rights: legal practitioners dossier", Centre on Housing Rights and Evictions, December 2006 (www.cohre.org/store/attachments/COHRE%20Legal%20Practitioners%20Dossier.pdf); and www.cohre.org/litigation.

52. Moreover, the interdependence and indivisibility of all human rights entails the existence of close connections between different rights, regardless of the category to which they have been assigned. As a consequence, human rights present such strong connections that aspects of some rights can be the vehicle for the judicial protection of other rights.

53. These considerations apply fully to the right to adequate housing. Considerable progress has been achieved in the clarification of the content of the right to adequate housing, including through the elaboration of General Comments No. 4 and No. 7 of the Committee on Economic, Social and Cultural Rights[18] and the work of the Special Rapporteur as previously discussed. The present understanding of the right to adequate housing includes various kinds of duties, including some negative duties (i.e., the prohibition of forced evictions) and some positive duties (the adoption of legislative and other measures to ensure security of tenure, accessibility and affordability of houses, or the eradication of homelessness). It also stresses the fact that a number of duties stemming from the right to adequate housing are of an immediate nature — and not subject to progressive implementation — such as the prohibition of discrimination, the protection against forced evictions or protection from domestic violence, which is closely intertwined with access to housing.

54. It is important to note that the right to adequate housing also entails important connections with other human rights and principles, such as the prohibition of discrimination, the right to a fair trial and due process, the right to private and family life, the protection of property, the right to an adequate standard of living, the right to food, the right to health and the right to water.[19]

55. The clarification of the content of the right to adequate housing has also made apparent that many aspects of this right can be — and, in many jurisdictions, actually are — subject to judicial and quasi-judicial adjudication. Comparative jurisprudence at the domestic, regional and international level offers numerous illustrations of the justiciability of the right to adequate housing, as can be seen through a few examples of case law in this area.[20]

56. Protection against forced evictions has been an important focus of litigation in different jurisdictions. Courts and international treaty bodies have developed an important set of principles and procedural safeguards to prevent unwarranted evictions. The Supreme Courts of India and of Bangladesh have issued important decisions in this regard, underscoring the importance of the State's procedural duties

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[18] See Committee on Economic, Social and Cultural Rights, General Comment No. 4, The right to adequate housing (E/1992/23), www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument; General Comment No. 7, Forced evictions, and the right to adequate housing (E/1998/22), www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument.

[19] See E/1992/23, para. 7: "The right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised." The Committee also mentions the right to housing as inextricably linked to other rights in different General Comments. See, for example, General Comment No. 14, The right to the highest attainable standard of health (E/C.12/2000/4), para. 11; General Comment No. 15, The right to water (E/C.12/2002/11), para. 3. In the same sense, see report of the Special Rapporteur, E/CN.4/2001/51 (making clear the need for a holistic approach regarding the right to housing, and stressing its interdependence and indivisibility with other civil, political, economic, social and cultural rights).

[20] Christian Courtis, note 17 above.

which must be complied with as a requisite for a lawful eviction.[21] For instance, the Supreme Court of Bangladesh ruled, in *ASK v. Bangladesh*,[22] that before carrying out a massive eviction from an informal settlement, the Government should develop a plan for resettlement, allow evictions to occur gradually and take into consideration the ability of those being evicted to find alternative accommodation. The Court also held that the authorities must give fair notice before eviction.

57. A decision of the Constitutional Court of South Africa also illustrates this point. In *Port Elizabeth Municipality v. Various Occupiers*[23] the Court declined to grant an order to evict 68 people squatting on privately owned land. The Court considered the request for eviction petition under three criteria — circumstances under which the unlawful occupier occupied the land and erected the structures; the period the occupier has resided on the land; and the availability of suitable alternative land — and concluded that, according to the circumstances of the case, the Municipality had not shown that it made any significant attempt to consider the problems of the occupiers.

58. The European Committee of Social Rights has also issued a number of decisions where it found that forced evictions had taken place and amounted to violations of different provisions of the European Social Charter. For instance, the Committee found violations of the housing rights of Roma communities, both by action and by omission. In the cases of *European Roma Rights Center v. Greece*, *European Roma Rights Center v. Italy* and *European Roma Rights Center v. Bulgaria*, the Committee considered, inter alia, that the practices of forced evictions and the lack of policies in place to accommodate the specific housing demands of the Roma groups amounted to violations of the rights to housing and social protection, in relation to the prohibition of discrimination.[24]

59. International human rights treaty monitoring bodies have also applied the prohibition of discrimination and the principle of equality to housing issues. The Committee on Racial Discrimination considered situations of violations of the right to adequate housing through discrimination on the basis of racial origin. In the case of *Ms. L. R. et al v. Slovakia*,[25] the Committee dealt with a municipal decision revoking a housing policy directed towards fulfilling the needs of the Roma population, finding that such revocation amounted to a discriminatory impairment of the right to housing based on grounds of ethnic origin.

60. Courts have also applied equality and anti-discriminatory protection regarding housing on different grounds. The United States Supreme Court struck down a municipal statute forbidding the establishment of a residence for persons with

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[21] See Supreme Court of India, Olga Tellis & Ors v. Bombay Municipal Council [1985] 2 Supp SCR 51, 10 July 1985; Supreme Court of Bangladesh, Ain o Salish Kendra (ASK) v. Government and Bangladesh & Ors 19 BLD (1999) 488, 29 July 2001.

[22] See Supreme Court of Bangladesh, note 21 above.

[23] See Constitutional Court of South Africa, *Port Elizabeth Municipality v. Various Occupiers*, case CCT 53/03, 4 March 2004.

[24] See European Committee of Social Rights, *European Roma Rights Center v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004; *European Roma Rights Center v. Italy*, Complaint No. 27/2005, decision on the merits of 7 December 2005; *European Roma Rights Center v. Bulgaria*, Complaint No. 31/2005, decision on the merits of 18 October 2006.

[25] See Committee on the Elimination of Racial Discrimination, *Ms. L. R. et al v. Slovakia*, Communication No. 31/2003, 10 March 2005.

intellectual disabilities, considering it discriminatory.[26] United States federal courts have repeatedly enforced the Fair Housing Act, which forbids discrimination against any person because of race, colour, religion, sex, disability, familial status or national origin.[27]

61. Courts have also dealt with the issue of affordability of housing, stressing the special consideration that securing housing tenure should have even in times of unstable economic conditions. The Constitutional Court of Colombia offers an important example: in a number of decisions that regarded the situation of thousands of debtors, it declared that a scheme to readjust mortgage payments was abusive and amounted to a violation of the constitutional right to housing.[28] Similarly, Brazilian courts have protected the rights of purchasers of dwellings against unjustified or abusive interest rates, through the application of provisions of the Consumer Code.[29]

62. The adoption of adequate measures to realize the right to housing has also been subjected to judicial scrutiny. For instance, in the famous *Grootboom* case, the Constitutional Court of South Africa employed a "reasonableness" test and concluded that the housing plan adopted by the Administration was unreasonable — and thus unconstitutional — because it did not take into account the situation of the most vulnerable groups.[30] Argentine courts found that a public refuge for homeless people did not meet adequate habitability conditions and ordered the Government to relocate its dwellers.[31] In the cases of *International Movement ATD Fourth World v. France* and *European Federation of National Organisations working with the Homeless (FEANTSA) v. France*, the European Committee of Social Rights decided, on different grounds, that the Government's policy regarding access to housing for the poorest members of the community and the measures to reduce homelessness were inadequate or insufficient, and thus amounted to violations of the right to housing.[32] For these decisions, the European Committee of Social Rights also relied on the work of the Special Rapporteur and the Committee on Economic, Social and Cultural Rights to deliver its decisions.

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[26] See United States Supreme Court, *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985).

[27] See, for example, United States District Court for the Eastern District of California, Consent Order entered in *United States v. Claiborne* (No. S-02-1099 DFL DAD) (E.D. Cal.) (2004), in a case of alleged discrimination on the basis of sex.

[28] See Constitutional Court of Colombia, *Sentencia* C-383/99, 27 May 1999; *Sentencia* C-700/99, 16 September 1999; *Sentencia* C-747-99, 6 October 1999; and *Sentencia* C-955/00, 26 July 2000.

[29] See, for example, Superior Court of Justice of Brazil, Recurso Especial N° 936.795-SC (2007/0066022-5), 8 April 2008, among many others.

[30] See Constitutional Court of South Africa, *The Government of the Republic of South Africa and others v. Irene Grootboom and others*, 2001 (1) SA 46 (CC), 4 October 2000.

[31] See Buenos Aires Administrative Court of Appeals, Chamber I, Pérez, Víctor Gustavo y Otros c. GIBA s/Amparo, 01/26/2001. The premises were flooded and infested with rats.

[32] See European Committee of Social Rights, *Movement ATD Fourth World v. France*, Complaint No. 33/2006, decision on the merits of 5 December 2007 (www.coe.int/t/e/human_rights/esc/4_Collective_complaints/List_of_collective_complaints/CC33Merits_en.pdf); *European Federation of National Organisations working with the Homeless (FEANTSA) v. France*, Complaint No. 39/2006, decision on the merits of 5 December 2007 (http://www.coe.int/t/e/human_rights/esc/4_Collective_complaints/List_of_collective_complaints/CC39Merits_en.pdf).

63. Courts have also required Governments to take urgent measures regarding housing rights in cases of forced displacements. In a collective decision involving 1,150 families, the Constitutional Court of Colombia declared that the generalized failure of the Government to comply with the goals required by the law regarding, among others, the right to adequate housing amounted to an "unconstitutional state of affairs" and required them to adopt administrative and financial measures to adjust its action in order to provide immediate shelter to displaced families, refrain from applying coercive measures to return or resettle people and ensure a safe return to their places of origin.[33] Moreover, in order to monitor compliance with the decision, the Court ordered the Government to adopt a detailed system of indicators and held a number of public hearings.[34] Similarly, the Supreme Court of Nepal issued a directive order to the Government, requiring it to adopt a clear legal framework, consistent with the principles of equality and non-discrimination, ensuring the appropriate management of the services and facilities to be provided to the internally displaced, including those regarding housing.[35]

64. Comparative case law highlights the connection of the right to adequate housing with other human rights such as the rights to privacy, family life and home, the right to property, the freedom of movement and residence and the right to be free from torture and inhuman or degrading treatment.[36] Moreover, the right to adequate housing has also been protected in the domestic sphere through its relation with consumer rights or legislation regarding zoning.

65. Even in those legal systems where the right to adequate housing is not recognized as such, many components of the right have received indirect protection through its connection with other rights. Thus, for example, while the European Convention on Human Rights does not include the right to housing, the European Court of Human Rights has offered protection to housing rights through an array of different provisions of that Convention and of its Protocols. The European Court has held that forced evictions,[37] forced displacement and destruction of homes,[38] and the exposure of housing to unhealthy environmental conditions[39] may amount to a

[33] See Constitutional Court of Colombia, *Sentencia T-025/04*, 22 January 2004.

[34] See Constitutional Court of Colombia, *Auto 027/07*, 1 February 2007.

[35] See Supreme Court of Nepal, *Bhim Prakash Oli et al. v. Government of Nepal et al.*, 8 February 2006.

[36] Christian Courtis, note 17 above.

[37] See, for example, European Court of Human Rights, *Connors v. the United Kingdom*, 27 May 2004, paras. 85-95; *Prokopovich v. Russia*, 18 November 2004, paras. 35-45.

[38] See, for example, *Aakdivar and others v. Turkey*, 16 September 1996, para. 88; *Cyprus v. Turkey*, 10 May 2001 (rights of displaced persons, paras. 174-175); *Yöyler v. Turkey*, 10 May 2001, paras. 79-80; *Demades v. Turkey*, 31 October 2003, paras. 31-37 (article 8); *Selçuk and Asker v. Turkey*, 24 April 1998, paras. 86-87; *Bilgin v. Turkey*, 16 November 2000, paras. 108-109; *Ayder v. Turkey*, 8 January 2004, paras. 119-121; *Moldovan and others (2) v. Romania*, 12 July 2005, paras. 105, 108-110.

[39] See, for example, European Court of Human Rights, *López Ostra v. Spain*, 9 December 1994, paras. 51, 56-58; *Guerra and others v. Italy*, 19 February 1998, para. 60; *Hatton and others v. the United Kingdom*, 2 October 2001, paras. 99-107; *Taskin and others v. Turkey*, 10 November 2004, paras. 115-126; *Moreno v. Spain*, 16 November 2004, paras. 60-63; *Fadeyeva v. Russia*, 9 June 2005, paras. 94-105 and 116-134.

violation of the right to privacy, family life and home and to a violation of the right to property,[40] and even to inhuman and degrading treatment.[41]

66. Similarly, while the American Convention on Human Rights does not mention explicitly the right to adequate housing, the Inter-American Court of Human Rights found that forced evictions and displacement and destruction of homes constitute a violation of the right to property,[42] the right to freedom from interference with private life, family, home and correspondence[43] and freedom of residence and movement.[44]

67. While domestic jurisdictions and some regional human rights systems provide remedies when violations of the right to adequate housing occur, protection in the universal human rights system is still incomplete: it is limited to indirect protection — through the connection with other human rights — and to those cases where discrimination regarding housing rights occurs on the basis of race, gender, migration or disability. The adoption of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights will extend similar protection to all other cases of violation of the right to housing by allowing victims to submit communications to the Committee on Economic, Social and Cultural Rights. The Special Rapporteur strongly encourages the prompt adoption and ratification of the Optional Protocol, which will help to further clarify the content of the right to adequate housing and of State obligations in this regard, will offer victims redress at the universal level and will offer visible international standards that could inspire judicial decisions at domestic level.

V. Conclusions and recommendations

68. The Special Rapporteur would like to take the opportunity of this first report to the General Assembly to formulate a number of initial recommendations to States.

69. Implementation and realization of the right to adequate housing requires States to include provisions on the protection, fulfilment and justiciability of this right in their national and constitutional law.

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[40] See, for example, European Court of Human Rights, *Aakdivar and others v. Turkey*, 16 September 1996, para. 88; *Cyprus v. Turkey*, 10 May 2001 (rights of forcefully displaced persons, paras. 187-189); *Yöyler v. Turkey*, 10 May 2001, paras. 79-80; *Demades v. Turkey*, 31 October 2003, para. 46; *Xenides-Arestis v. Turkey*, 22 December 2005, paras. 27-32; *Selçuk and Asker v. Turkey*, 24 April 1998, paras. 86-87; *Bilgin v. Turkey*, 16 November 2000, paras. 108-109; *Ayder v. Turkey*, 8 January 2004, paras. 119-121. In *Oneryildiz v. Turkey*, 30 November 2004, the Court decided that the applicant's proprietary interest in a precarious hut built irregularly on State-owned land was of a sufficient nature to be considered a "possession" in the sense of article 1 of Protocol No. 1.

[41] See European Court of Human Rights, *Yöyler v. Turkey*, 10 May 2001, paras. 74-76; *Selçuk and Asker v. Turkey*, 24 April 1998, paras. 77-80; *Bilgin v. Turkey*, 16 November 2000, paras. 100-104; *Moldovan and others (2) v. Romania*, 12 July 2005, paras. 111, 113 and 114.

[42] See Inter-American Court of Human Rights, *Moiwana Community v. Suriname*, 15 July 2005, paras. 127-135; *Ituango Massacres v. Colombia*, 1 July 2006, paras. 175-188.

[43] Ibid., paras. 189-199.

[44] See Inter-American Court of Human Rights, *Moiwana Community v. Suriname*, 15 July 2005, paras. 107-121; *Mapiripán Massacre v. Colombia*, 15 September 2005, paras. 168-189; *Ituango Massacres v. Colombia*, 1 July 2006, paras. 206-253.

70. In light of the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Special Rapporteur encourages States to consider ratification of the new instrument without reservation or delay.

71. The Special Rapporteur also urges States to include and fully integrate the right to adequate housing in urban planning and housing policies both at local and national levels.

72. In view of the increasing number of homeless people both in developed and developing countries, the Special Rapporteur urges States to take homelessness seriously and take immediate measures to address the plight of those people who have been forced into homelessness.

73. In particular, the Special Rapporteur urges States:

(a) To undertake, as a matter of urgency, every possible effort to promptly increase the number of adequate shelters for the homeless and provide different options for assistance including hostels, boarding houses, rental and cooperative units, land sharing and other adequate forms of shelter, taking into account the needs and specificity of this vulnerable section of the population;

(b) To refrain from any action that could push people into homelessness, including in cases of evictions, whether considered legal or illegal under national law, taking into account that evictions should not result in homelessness according to the prohibition on forced evictions under international human rights law;

(c) To stop the adoption of — or repeal — any legislation or measures that criminalize homeless people.

United Nations A/63/276

General Assembly

Distr.: General
13 August 2008

Original: English

Sixty-third session
Item 82 of the provisional agenda*
Report of the International Atomic Energy Agency

Report of the International Atomic Energy Agency

Note by the Secretary-General**

1. The fifty-second report of the International Atomic Energy Agency, for the calendar year 2007 (GC(52)/9), is submitted herewith to the General Assembly. Major developments since the report was published will be covered by the annual statement of the Director General of the Agency to the General Assembly. The report has been transmitted in accordance with the provisions of article III, paragraph 1 (a), of the Agreement governing the relationship between the United Nations and the International Atomic Energy Agency (General Assembly resolution 1145 (XII), annex).

2. As only a limited number of copies of the report are available, it has not been possible to make a full distribution. Delegations are therefore requested to have the copies transmitted to them available during the discussion of this item.

* A/63/150.

** The annual reports, in all languages, are printed in Vienna in August of each year as part of the documentation for the General Conference of the International Atomic Energy Agency. A specified number of copies are sent to the United Nations as part of the documentation for the General Assembly.

08-45974 (E) 190808

United Nations A/63/277

General Assembly

Distr.: General
13 August 2008

Original: English

Sixty-third session
Item 68 (a) of the provisional agenda*
Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance: strengthening of the coordination of emergency humanitarian assistance of the United Nations

International cooperation on humanitarian assistance in the field of natural disasters, from relief to development

Report of the Secretary-General

Summary

The present report has been prepared pursuant to General Assembly resolution 62/92, in which the Assembly requested the Secretary-General to continue to improve the international response to natural disasters and to report thereon to the General Assembly at its sixty-third session. The report provides an overview of the occurrence of disasters associated with natural hazards and the humanitarian response to them and highlights emerging trends, their implications for humanitarian action and the key challenges that need to be addressed.

* A/63/150.

08-45981 (E) 100908

I. Introduction

1. The present report has been prepared in response to General Assembly resolution 62/92. It provides an overview of the occurrence of disasters associated with natural hazards and the humanitarian response to them and highlights emerging trends, their implications for humanitarian action and the key challenges that need to be addressed. It concludes with a number of recommendations.

A. Trends and emerging challenges[1]

2. During 2007, 414 disasters associated with natural hazards were recorded, costing more than 16,800 lives and affecting over 211 million people. According to the Centre for Research on the Epidemiology of Disasters, the total number of disasters in 2007 was the third highest on record and slightly above the 2000-2006 average of 394 disasters per year. The number of victims (those killed and affected) was the second highest this decade and almost twice the level of 2006.

3. These figures conform to a longer-term trend of increasing frequency and intensity of recorded disasters associated with natural hazard events. Over the past two decades, the number of reported disasters has doubled from an average of about 200 to over 400 events per year. This increase can, in part, be attributed to better reporting, but other factors, including changes in both hazard patterns and human vulnerability, also contribute to these trends.

4. The increase in recorded disaster events is particularly pronounced for climate-related hazard events. Floods remained the most frequent type of disaster recorded, with just over 210 incidents recorded in 2007. Together with storms, they accounted for more than 86 per cent of the overall disaster mortality and 98 per cent of the total number of affected persons.

5. The incidence of tropical cyclones was particularly high in 2007, with 64 incidents recorded; an increase of 28 per cent compared with the 2000-2006 average. The number of geophysical disasters, such as earthquakes and volcanic eruptions, in 2007 was lower than average, with only 26 geophysical disasters reported (6 per cent of the total events).

6. Asia continued to be the region hardest hit by hazard-related disasters. Indeed, 37 per cent of disasters reported in 2007 occurred in Asia, accounting for 90 per cent of all victims and 46 per cent of all recorded economic damage. For example, particularly severe monsoon flooding throughout Asia affected approximately 170 million people in mid-2007. Cyclone Sidr struck Bangladesh killing over 4,200 people in November 2007. These trends have continued in 2008. In May 2008, over 140,000 people were reported dead or missing in Myanmar as a result of the devastating Cyclone Nargis. Days later, China's Sichuan Province was rocked by a massive earthquake that claimed almost 69,000 lives.

[1] Data in section A are drawn from the International Disaster Database (http://www.em-dat.net) of the Centre for Research on the Epidemiology of Disasters at the Université Catholique de Louvain, Brussels, and from ReliefWeb (http://www.reliefweb.int) of the Office for the Coordination of Humanitarian Affairs of the Secretariat; for methodological reasons they cover the calendar year 2007. Data in subsequent sections refer to the reporting period 1 June 2007-31 May 2008.

7. Disasters caused more than $74.9 billion in economic damage in 2007, almost 80 per cent of which was caused by climate-related hazard events. Dollar figures alone, however, do not accurately capture the impact of disasters. The 65 disasters in Europe in 2007 accounted for 27 per cent of the world's economic damage from hazard-related disasters, but only 1 per cent of the world's victims. Conversely, in poorer communities, although absolute financial losses are lower, a disaster's impact on lives and livelihoods is often far more devastating. Within communities, women, children and already marginalized groups are often affected disproportionately.

8. The toll of the human costs of disasters remained concentrated in a small number of larger events and higher risk countries. The 10 most significant disasters accounted for 55 per cent of all the reported deaths and 85 per cent of the total number of people affected. This suggests that although the vast majority of small and medium-scale disasters are responded to locally by national authorities, there is a continued need to strengthen regional and international preparedness and response systems for those large-scale events which may overwhelm local capacity to cope.

9. Global climate change is also increasing the risk of disasters. The recent Inter-governmental Panel on Climate Change fourth assessment report made clear that the evidence to confirm human-induced global warming is now unequivocal. The report noted that this will very likely increase the frequency and intensity of extreme weather events such as droughts, cyclones and floods. This will also profoundly affect agricultural production, increasing the number of people at risk of hunger in vulnerable areas. More frequent and intense flooding will also heighten the risk of water-borne diseases. Rising temperatures have already increased the likelihood of malaria epidemics in parts of Africa. Combined, these changes have the potential to intensify the struggle for scarce resources, increasing the potential for displacement, migration and armed conflict.

10. The recent unprecedented increase in food costs also has far-reaching implications for the humanitarian system. Worldwide, global food prices have soared 50 per cent since July 2007, threatening to drive another 100 million people into hunger and poverty. In-kind donations of food aid for humanitarian operations are also decreasing and food procurement constitutes an increasing percentage of overall humanitarian costs. For example, this year's mid-year review of the consolidated appeals process showed a $900 million dollar increase, of which $700 million was for food aid.

11. The implementation of preparedness and early warning systems in numerous countries at high risk of storms and floods, like Bangladesh, has already proved its effectiveness in saving human lives. Indeed, despite the overall increase in disaster incidence, the number of reported deaths and affected persons has remained relatively stable over the past 20 years. Improved preparedness and early warning systems have undoubtedly contributed to this trend. The emerging challenges of climate change and greater global food insecurity reinforce the need to strengthen disaster preparedness and risk-reduction efforts as a means of reducing the humanitarian impact of hazard events.

II. Year in review (1 June 2007-31 May 2008)

A. Climate-related hazard events

1. Africa

12. Throughout the summer of 2007, a combination of extremely high temperatures and low rainfall led to one of the worst droughts in Southern Africa in 30 years, affecting Lesotho and Swaziland in particular. Over 400,000 people required humanitarian assistance. Flash appeals were launched for the two countries in July 2008, requesting $22 million and $18 million respectively, to support the provision of food aid, agricultural inputs, early livelihood recovery and other basic services. By the close of the reporting period, both appeals were over 70 per cent funded.

13. Unusually heavy rainfall in the latter part of 2007 also led to some of the worst and most widespread floods in the history of Africa.

14. In West Africa, floods affected over 800,000 people in 15 countries, destroying houses and washing away thousands of hectares of crops. The floods coincided with the so-called "lean season" when families, mostly in the Sahel region, face regular food insecurity. Livelihoods were further endangered by the large loss of livestock. The worst hit countries included Burkina Faso, Ghana, Mali and Togo. The United Nations and its partner organizations launched flash appeals in October 2007 for Burkina Faso ($5.9 million) and Ghana ($12 million) to initiate immediate humanitarian aid. To date, the two appeals have been 21 per cent and 59 per cent funded respectively.

15. In Eastern Africa, Ethiopia, Kenya, Rwanda, Somalia, the Sudan and Uganda were badly hit by floods in August and September 2007. Several hundred thousand people were affected or displaced. The floods also contributed to outbreaks of diseases such as malaria and acute watery diarrhoea. In the Sudan, more than half a million people were affected when the Nile and several seasonal rivers burst their banks. Farms and livestock as well as roads, latrines, hospitals and schools were damaged or swept away, leaving whole communities destitute and food production significantly lower. By the close of the reporting period, a flash appeal had provided $18 million for relief efforts (about 50 per cent of the requested amount). In Uganda, floods affected 300,000 people and damaged 8,500 acres of crops, resulting in widespread food insecurity. Humanitarian actors assisted the Government in providing emergency food aid.

16. Having barely recovered from the floods that hit the region a year earlier, Southern Africa once again faced unusually early and torrential rainfall and three consecutive cyclones in early 2008. Over 1 million people were living without adequate shelter. Madagascar, Malawi and Mozambique were worst affected, but Lesotho, Swaziland, Zambia and Zimbabwe were also hit hard. In February 2008, the United Nations and its partners launched the Southern African region flood preparedness and response plan, to support the implementation of national contingency plans for response. An additional flash appeal for Madagascar was launched in February 2008. By the close of the reporting period, the Madagascar Appeal had received 46 per cent of the $46 million requested, while the regional appeal had received $17 million, or 20 per cent of the requested $89 million.

2. Asia

17. Over the summer of 2007, South Asia experienced the worst floods in over a decade. Just as the monsoon was expected to be coming to an end, heavy rains and subsequent floods swept across Bangladesh, India, Nepal and Pakistan in September. The rains stranded over 100,000 people in Bangladesh and left millions homeless in India. Overall, the floods killed more than 4,000 people and disrupted the lives of more than 66 million. A flash appeal requested $42 million to support relief efforts in Pakistan, of which approximately 50 per cent has been funded to date.

18. In August 2007, torrential rains caused severe flooding in the Democratic People's Republic of Korea, killing over 450 and affecting almost 1 million people. Over 240,000 homes were damaged or destroyed and key transport and communications infrastructure, medical services and power supplies suffered major damage. There was significant damage to crops, adding to ongoing concerns regarding food insecurity. A flash appeal was launched, through which $13 million (90 per cent of the requested amount) was provided to support humanitarian assistance.

19. Heavy rains in early August 2007 caused serious flooding in central Viet Nam. The affected areas were still recovering when Typhoon Lekima made landfall on 3 October. Authorities managed to evacuate 400,000 people and thus limited the loss of lives to 88. Overall, two million people were affected by the typhoon and associated flooding.

20. In November a major cyclone, Sidr, hit Bangladesh causing extensive damage, especially in the country's south-western districts. Due to investments in preparedness and risk reduction, the Government was able to evacuate more than three million people to safety at short notice. Nationally led efforts provided relief and recovery assistance from the outset, supplemented where necessary by international humanitarian actors. Overall, 4,200 people lost their lives, 55,000 were reported injured and more than 8.9 million people were affected. Material damage was severe, with over 560,000 homes and over 4,000 schools completely destroyed. There was no international appeal as such, but humanitarian assistance came from many quarters.

21. Abnormally cold weather and heavy snowfall in December 2007 in Tajikistan, combined with two consecutive poor harvests and a drastic increase in food and fuel prices, left rural populations with few remaining strategies to cope. A flash appeal was launched in February 2008, seeking $26 million to address the needs of two million people and to undertake preparedness measures for potential flooding in the spring when the snow melts. To date, the appeal is just over 50 per cent funded.

22. The harshest winter weather conditions in nearly 30 years in Afghanistan caused fatalities, hardship and major access problems in the western and central highlands in the beginning of 2008. Almost 900 people died and agricultural production was severely damaged. Internally displaced persons living in camps near Herat, Afghanistan, were particularly affected. National and international humanitarian organizations assisted the Afghan authorities in providing food, shelter material and other basic assistance to the affected areas. The harsh winter was then followed by months of below normal rainfall in much of central Afghanistan, which further limited domestic food production in a period of globally spiralling food

prices. In response to these events a $81 million Afghanistan joint appeal to address the humanitarian consequences of the rise in food prices was launched in January 2008 to provide a safety net for the 425,000 most vulnerable households placed at risk of food insecurity. A further joint appeal for just over $400 million was launched at the end of June 2008.

23. Cyclone Nargis struck Myanmar on 2 May 2008, sweeping through the Ayeyarwady Delta region and Yangon Division. Approximately 2.4 million people were severely affected and official figures put the number of dead and missing at nearly 40,000. Damage was particularly severe in the delta region, where the effects of extreme winds were compounded by a huge storm surge that destroyed large numbers of dwellings, crops, planting fields, fisheries and livestock. Infrastructure, including roads and telecommunication lines, was also severely damaged. A United Nations disaster assessment and coordination team was immediately dispatched and a flash appeal was launched for $201 million to assist the Government-led relief work. By the close of the reporting period, a new revised appeal, totalling some $482 million, had been 40 per cent funded. In the first weeks, because of Government limitations on access for international aid workers and assets, the level and timeliness of aid getting into the country were inadequate. Following missions to the country in late May by the Secretary-General and by the Emergency Relief Coordinator and an international pledging conference in Yangon, access significantly improved and proper relief and assessment efforts have been able to unfold.

3. Latin America and the Caribbean

24. 2007 was the first year on record that two Atlantic hurricanes (Dean and Felix) made landfall at maximum strength in the same season. Hurricane Dean entered the eastern Caribbean in mid-August, killing at least 26 people and causing widespread material damage and loss of crops, in Belize, Haiti, Jamaica and Mexico. Hurricane Felix hit Nicaragua at the beginning of September, affecting a further 162,000 people and destroying 8,000 houses, as well as many communications and power lines. The widespread destruction of bridges and roads hampered the relief operations. A flash appeal asking for $41 million to support relief efforts was launched immediately after the event. By the end of the reporting period, the appeal was 43 per cent funded.

25. In October and December 2007, the Dominican Republic was hit by two intense tropical storms, which brought heavy rains and flooding and severely damaged economic and social infrastructure. The storms killed over 160 people and directly affected more than 130,000 people.

26. In October 2007, heavy rains in Mexico caused the worst flooding in more than 50 years. Over a million people in the states of Tabasco and Chiapas were affected. Crops were destroyed, livestock killed and most businesses in the states were affected. In addition, the rains caused landslides which damaged the road network, hampering relief efforts. At least 11 hospitals and more than 100 medical centres were partially or totally flooded. United Nations organizations and other international humanitarian actors supported the Government of Mexico in relief and rehabilitation efforts.

27. Persistent rains that were heavier than normal during the first months of 2008 triggered flooding across parts of northern and central South America. More than

339,000 persons were affected and 50 people lost their lives. Displaced people sheltering in urban camps were among the most vulnerable. An estimated 70,000 hectares of food and cash crops were also destroyed. A flash appeal to support humanitarian relief operations in Bolivia was launched in February asking for $18 million, of which 73 per cent has been funded to date.

B. Geological hazard events

28. An earthquake measuring 7.9 on the Richter scale struck the coast of Peru on 15 August 2007, destroying many buildings, including hospitals and schools, in the city of Pisco and seriously affecting many other areas, including the capital, Lima. More than 500 people died as a direct consequence of the quake. A flash appeal was launched for $37 million to assist more than 200,000 people requiring life-saving assistance. By the close of the reporting period, the appeal was almost 60 per cent funded.

29. On 12 May 2008, a major earthquake measuring 8.0 on the Richter scale struck Wenchuan County in the Sichuan Province of China. This was followed by a number of major aftershocks, many of which measured over 5.0 on the Richter scale. Almost 69,000 people were killed and approximately 374,000 people were injured. By the close of the reporting period approximately 18,000 people were still missing. Almost 5.5 million homes were destroyed and an additional 5.9 million houses were seriously damaged. In Sichuan, as in earlier large-scale earthquakes, collapsed buildings caused the largest number of fatalities. A massive nationally led rescue and relief operation was initiated, resulting in the evacuation of 15 million people from the affected area. A total of 45 million people are estimated to have been affected by the earthquakes. The Government of China welcomed assistance from the international community, which to date has committed over $250 million dollars in cash and in-kind contributions.

C. Epidemics

30. Poor access to health services is of immediate concern in many countries vulnerable to natural hazards, since health infrastructure is often overwhelmed and transport links are damaged after disasters. Water and sanitation services are often interrupted, putting populations at risk from outbreaks of water- and food-borne diseases, such as cholera. Overcrowding and displacement also increase the risk of transmission of measles, meningitis and acute respiratory infections. Moreover, flooding increases the medium-term risk of malaria, dengue fever and other diseases. International aspects of communicable disease outbreaks are now managed under the International Health Regulations (2005), a legally binding agreement among 194 States, which came into force in June 2007. During the reporting period, the United Nations verified 162 infectious disease outbreaks globally, affecting 75 countries. Of these, 37 per cent occurred in Africa. Major epidemics included cholera and other epidemic diarrhoeal diseases, measles and haemorrhagic fevers.

31. Disasters interact with the HIV/AIDS epidemic to undermine the health and livelihoods of AIDS-affected populations, while increasing the conditions, such as sexual violence, malnutrition and population displacement, that are likely to intensify the HIV/AIDS burden. A number of the reporting period's major disasters,

such as the droughts in Lesotho and Swaziland and the floods in Southern Africa occurred in countries with an HIV prevalence as high as 30 per cent of the population. These disasters further exacerbate the already vulnerable AIDS-affected populations by decreasing their access to food, livelihoods, shelter and medical services.

32. The United Nations system is also continuing efforts to prepare for a potential influenza pandemic. The avian influenza H5N1 virus is now endemically circulating in poultry in at least five countries. Human cases and deaths from avian influenza H5N1 have been reported in 15 countries since 2003 and have caused more than 100 human deaths in Indonesia alone. Experts agree that a high mortality influenza pandemic is as serious a threat to human security now as it was two years ago. In December 2007, donors pledged $406 million for efforts to control avian influenza and to prepare for a possible pandemic. The United Nations and its partners continued to support country level contingency planning and to assist Governments in preparing for and addressing emerging humanitarian needs related to a possible pandemic.

III. Key challenges

33. Over the past two decades, while the number of recorded disasters has increased significantly, so too has disaster resilience in some countries. For example, the approximately 4,200 deaths resulting from Cyclone Sidr in November 2007, though tragic, are significantly lower than the over 300,000 deaths attributable to a cyclone of similar magnitude that hit the same area in 1970. The lower death rate is directly attributable to the improved and effective use of early warning and community-based preparedness measures, as well as Government-led efforts to evacuate some 3 million people from the areas expected to be hit by the cyclone.

34. Strengthened preparedness is essential to saving lives and livelihoods in disasters. Increasing capacity to predict, monitor, warn and respond to the needs of those who have been adversely affected in an emergency is essential for effective humanitarian action. This includes establishing institutional arrangements in advance and maintaining effective early warning, information management and contingency planning systems. Stockpiling equipment and supplies, strengthening emergency services and standby arrangements, allocating sufficient resources and funding, establishing communications and coordination arrangements and providing training and public education are also important. Regional and international cooperation can be essential in further strengthening these systems.

35. Effective disaster preparedness is a critical component of a holistic disaster risk reduction approach, as outlined in the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters, which was adopted by 168 States at the World Conference on Disaster Reduction in Kobe, Hyogo, Japan, in 2005. The Framework for Action provides a road map for achieving a substantial reduction in disaster losses by 2015 and aims to protect not only lives but also social, economic and environmental assets. Within this framework, the strategic goals of the Framework for Action include the integration of disaster risk reduction into sustainable development policies and planning, the development and strengthening of institutions, mechanisms and capacities to build

resilience to hazards and the systematic incorporation of risk reduction approaches into the implementation of emergency preparedness, response and recovery programmes. While a number of priority areas in the Framework for Action are essentially developmental in nature, two of its five priority areas emphasize the need for enhanced early warning systems and preparedness for effective response, which are both central components of humanitarian action.

A. Strengthening disaster preparedness for effective response

36. During the reporting period, a number of key steps were taken at the global level to strengthen early warning and preparedness for response capacity. The start of the reporting period coincided with the first session of the Global Platform for Disaster Risk Reduction organized by the International Strategy for Disaster Reduction secretariat. The meeting brought together representatives of 124 Member States and over 1,200 participants from Governments, United Nations organizations, financial and academic institutions, non-governmental organizations and civil society, to assess and support implementation of the Hyogo Framework for Action. It also provided an invaluable forum for stakeholders from all levels and priority areas of the Framework to strengthen linkages and learn from established best practice. In addition to a wide range of implementation activities, preparations for the second session of the Global Platform, scheduled for June 2009, are well under way.

37. Ongoing humanitarian reform efforts have been used to foster greater coherence among international humanitarian actors and greater synergy with national response mechanisms. Investment in the global "cluster" coordination system has ensured improved collaboration on preparedness in a number of countries, as well as better and quicker support from the global level at the outset of several disasters. In the reporting period, the cluster approach was used in a number of disaster responses, including for Bangladesh, Bolivia, Mozambique, Myanmar, Pakistan, Tajikistan and parts of West Africa.

38. Following an extensive review process in November 2007, the Inter-Agency Standing Committee endorsed the revised Inter-Agency Contingency Planning Guidelines for Humanitarian Assistance. These Guidelines present recommendations on how to establish and implement an inter-agency contingency planning process, develop integrated plans and monitor ongoing preparedness actions. The Guidelines also outline how the international humanitarian community can organize itself to support and complement national action. The Guidelines have been widely disseminated throughout the humanitarian community and inter-agency contingency planning has featured prominently in United Nations training and orientation programmes. An inter-agency contingency planning online toolbox was finalized and disseminated in July 2008. Simulation exercises are also increasingly being used to test planning assumptions and response systems. For example, in early 2008 simulations helped the humanitarian country teams in Guinea-Bissau and Mauritania to develop their contingency plans.

39. Humanitarian agencies, at the request of the Inter-Agency Standing Committee, also finalized the guidance and indicator package for implementing priority five (disaster preparedness for effective response) of the Hyogo Framework for Action. The guidance supports Member States, civil society, regional

organizations and international actors to strengthen their preparedness capacity. The tool has already been introduced by United Nations organizations to relevant Government counterparts in both Nepal and Uganda as a means of strengthening analysis, dialogue and planning. Further application of the tool in other regions is scheduled for 2008. The International Federation of Red Cross and Red Crescent Societies is also currently leading an inter-agency initiative to develop a complementary guidance note on humanitarian action that takes into account disaster risk as part of action on these issues by the Inter-Agency Committee.

40. Enhancing partnerships between humanitarian organizations to improve humanitarian action was the focus of the second meeting of the Global Humanitarian Platform, held on 1 and 2 July 2008. The United Nations, various international and non-governmental organizations and the International Red Cross and Red Crescent Movement participated in the meeting. Participants agreed that the Platform should be a forum for strategic discussion and analysis, focusing on key issues such as increased engagement of national non-governmental organizations in strategic and policy discussions and support to local non-governmental organizations, Governments and civil society to ensure better preparedness and therefore better response to humanitarian crises. The meeting also endorsed the Platform's key principles of partnership: equality, transparency, a results-oriented approach, responsibility and complementarity. These will guide the ongoing activities of the Platform and those of its members.

1. Strengthening the international legal framework for disaster risk reduction and the protection of persons affected by disasters associated with natural hazards

41. Adequate legal and institutional frameworks are an essential enabling factor for sustainable preparedness systems. In November 2007, the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance were unanimously adopted at the thirtieth International Conference of the Red Cross and Red Crescent. These Guidelines are the product of two years of broad-based consultations led by the International Federation of Red Cross and Red Crescent Societies, involving over 140 States and national Red Cross and Red Crescent societies, as well as numerous United Nations intergovernmental and non-governmental organizations. The Guidelines provide a compilation of existing international norms and are designed to assist Governments in preparing their legal and institutional arrangements for international disaster assistance.

42. The International Federation of Red Cross and Red Crescent Societies, in collaboration with the United Nations system and other partners, has now started to promote incorporation of the Guidelines into legal development, disaster management and risk reduction initiatives. For example, in Indonesia, following the adoption of legislation on disaster management in March 2007, humanitarian actors formed a task force to contribute to the drafting by the Government of the necessary supplementary regulations related to the role of international institutions and international non-governmental organizations in disaster management. Implementation of the Guidelines was also highlighted in the recommendations of the United Nations disaster assessment and coordination preparedness mission to Bhutan in 2008 and the provision of further technical assistance to other interested Governments is planned. Continued corporation between the Federation and the United Nations system in promoting the use of the Guidelines and bringing them into the mainstream is important.

43. Persons affected by disasters may suffer increased vulnerability and violation of their human rights as a result of inadequate planning and disaster preparedness and inappropriate policies or neglect in the disaster response. Women, children and already marginalized groups are often among those most at risk. In June 2006, the Inter-Agency Standing Committee adopted the Operational Guidelines on Human Rights and Natural Disasters. These Guidelines and an accompanying manual provide guidance on how to protect the rights of individuals affected by disasters through implementation of a humanitarian response based on human rights. A first series of regional workshops to disseminate and promote the Guidelines took place in Central America in May 2008. Others are now planned for Africa and Asia within the framework of the Protection Cluster Working Group.

44. In addition, the International Law Commission includes the topic of "Protection of persons in the event of disasters" in its work programme and has appointed a Special Rapporteur on the issue. A preliminary report of the Special Rapporteur (A/CN.4/598) and a study prepared by the Commission's secretariat (A/CN.4/598 and Add.1 and 2) formed the basis of the Commission's consideration of the issue at its sixtieth session, in 2008.

2. Strengthening national, local and regional capacities

45. During the reporting period, both the United Nations disaster assessment and coordination system and the International Search and Rescue Advisory Group continued to work with Member States to enhance preparedness and response capacity. During the reporting period, 13 United Nations disaster assessment and coordination response missions were deployed, eight to the Americas and Caribbean region, two to Africa and three to Asia. The missions were deployed to assess the impact of six floods, five storms and two earthquakes and to coordinate responses to them. A United Nations disaster assessment and coordination response preparedness mission was also sent to Bhutan where, at the request of the Government, it supported an evaluation of the national emergency preparedness plan and helped to identify ways to improve existing systems.

46. United Nations disaster assessment and coordination induction courses and refresher training sessions were also conducted for Africa and Europe, for the Americas and for the Asia and Pacific regions. Disaster managers trained in United Nations disaster assessment and coordination, 40 per cent of whom are from developing countries, joined a network of disaster experts that can be called upon for advice and assistance in response preparedness, training and capacity-building activities.

47. The International Search and Rescue Advisory Group network links over 90 per cent of the world's international urban search and rescue teams through regional groups, specialized working groups and international earthquake response exercises and other specialized activities. The Advisory Group coordination methodology was applied by urban search and rescue teams in all earthquake response operations in the reporting period. The Advisory Group also formally evaluated and classified four international urban search and rescue teams from Germany, the Netherlands, Singapore and the United States of America, in addition to one international non-governmental organization team, during the reporting period.

48. To further support the development of national disaster capacity in higher risk settings, in mid-2007 the United Nations also launched the Capacity for Disaster Reduction Initiative as an inter-agency initiative to support the implementation of the Hyogo Framework for Action. To date, support has been provided under the Initiative for the completion of a disaster risk reduction course for the Swedish Rescue Services Agency; delivered a workshop on organizational network analysis in collaboration with a training and learning circle in Asia; completed a capacity assessment exercise with the humanitarian country team in the Philippines; and assisted the development of a disaster preparedness plan for Uganda. In the coming year, various disaster preparedness activities will continue to be supported under the Initiative, including development of a learning package on bringing disaster risk reduction into the mainstream of existing humanitarian and development frameworks.

49. Humanitarian actors also stepped up efforts to promote the sharing of good practices in preparedness for disaster response. For example, in Bangladesh the humanitarian country team and the Government facilitated an inter-agency exercise on lessons learned from the response to Cyclone Sidr. In Honduras, the Government undertook a lessons-learned exercise on preparedness to respond to hurricanes, with the participation of the United Nations and other organizations. In Uganda, the humanitarian country team held a workshop to collect lessons from the response to the floods in 2007 in order to be prepared for the 2008 rainy season. In Pakistan, the National Disaster Management Authority, with the support of the United Nations system, is preparing disaster risk and recovery baseline studies in disaster prone districts and standard operating procedures for post-disaster livelihood assessment at the district level.

B. Harnessing information technology for improved humanitarian action

50. The availability of robust, reliable information and communications systems is critical for effective disaster response and enhances the security of humanitarian workers. Applying the latest technological advances in areas of remote sensing, mapping and satellite imagery has proved invaluable for humanitarian actors.

51. The online Virtual On-Site Operations Coordination Centre is used by over 7,000 disaster managers worldwide to exchange information during emergencies. During a sudden-onset disaster, usage of the Virtual Coordination Centre and new user requests soar, demonstrating its pivotal role in rapid information dissemination and response planning and coordination. The Virtual Coordination Centre is the platform for the Global Disaster Alert and Coordination System, which provides near-real-time disaster alerts with an automated estimation of likely impact. Both of these online tools permit instantaneous sharing of information and coordination for the international humanitarian response community at large.

52. During the reporting period, the emergency telecommunications cluster provided support to the humanitarian community in more than 20 countries. This included the deployment of technical teams to assess and provide emergency telecommunications services during emergencies in Bangladesh, the Central African Republic, Chad, Colombia, Ecuador, Ghana, Mozambique and Peru.

53. The Inter-Agency Standing Committee Sub-Working Group on Emergency Telecommunications, whose membership includes both humanitarian agencies and the private sector, has continued to promote the adoption of emergency telecommunication standards to increase the interoperability of equipment and systems in disaster areas. In 2007, a special meeting of the Sub-Working Group was convened to address issues related to procedures for the management of the radio frequency spectrum for emergency telecommunications in the initial stages of disaster relief operations. This resulted in the adoption of a resolution at the International Telecommunication Union World Radiocommunication Conference in November 2007. The resolution mandated the establishment of a database of currently available frequencies for use in emergency situations and the development of standard operating procedures for spectrum management in disasters. These efforts will support and expedite the initiation of effective communication systems in the early stages after a disaster.

54. Efforts continued to promote the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations. With the addition of Argentina and Ireland in 2007, 37 States have now ratified the Convention. While emphasizing the rights of national authorities to control their own telecommunications environment, the Tampere Convention suggests mechanisms through which the provision of additional equipment, including life-saving equipment, can be facilitated. Through ratification and implementation of the Convention, regulatory barriers that impede the use of telecommunication resources for disasters are waived. These barriers include the licensing requirements to use allocated frequencies, restrictions on the import of telecommunication equipment and limitations on the movement of humanitarian teams.

55. The use of space-based technology is increasingly enabling the United Nations system to provide real-time satellite maps at no cost to the humanitarian community. During the reporting period, 46 emergency responses, including all emergency United Nations disaster assessment and coordination missions, were supported with over 160 maps derived from satellite imagery, illustrating the situation before the disaster and the initial impact assessment. A review carried out by the Inter-Agency Standing Committee in September 2007 confirmed the benefit of this support, which includes the dissemination of satellite maps via the Virtual On-Site Operations Coordination Centre, the Global Disaster Alert and Coordination System and ReliefWeb, in addition to the web-based means deployed by individual organizations. Satellite imagery was also included among the minimum data requirements to be made available in responding to any emergency. Satellite derived geographic information also provides invaluable information for national authorities as they begin to chart the transition from humanitarian response to recovery and as they make plans for longer-term risk reduction in disaster affected areas.

56. In addition, a review of the Central Register of Disaster Management Capacities is planned to commence in 2008. The register comprises a series of standby directories to support the United Nations and the international community in delivering humanitarian emergency assistance. The objective of this review is to examine each directory to assess the level of added value and user satisfaction.

C. Strengthening the transition from relief to development

57. The early recovery cluster brings together most major humanitarian, disaster preparedness and development actors, from both within and outside the United Nations system, under one coordinated framework. Given that this is a relatively new area, there was considerable emphasis on early recovery training and capacity-building during the reporting period. Regional early recovery planning and programming workshops were held in Cuba and Thailand, involving the participation of over 75 practitioners from 15 countries. A total of 25 local-level actors from disaster-prone countries in Central America were trained on issues of disaster risk reduction in the framework of local development and local economic recovery. Dedicated sessions on early recovery were included in workshops for humanitarian coordinators and at regional meetings of resident coordinators. Workshops in Geneva for field-based practitioners focused on the concept and practice of early recovery and on bringing cross-cutting issues such as gender and HIV/AIDS into the mainstream.

58. These systems are leading to improved support at the field level. For example, following Cyclone Sidr in November 2007, support was provided to the Government of Bangladesh to compile a national early recovery implementation plan outlining immediate implementation projects in key sectors. The plan integrated recommendations from Government-led damage assessments and a loss and needs assessments by the World Bank which focused on macro-level, longer-term recovery.

59. In addition, a newly established roster of early recovery experts now includes over 100 consultants ready for rapid deployment to early recovery settings. Since its activation in September 2007, approximately 27 specialists have been deployed to support Government-led early recovery efforts.

60. To support this work, a guidance note on early recovery was finalized in April 2008. The note establishes key definitions and guiding principles and provides practical guidance on the various elements of the early recovery process. This will be complemented shortly by a toolkit and assessment tool to further facilitate the practical implementation of early recovery activities on the ground.

61. Guidance was also provided to humanitarian country teams on how to include early recovery needs within existing humanitarian planning tools, such as flash appeals and consolidated appeals. Although important progress has been made with key partners, including many donors, to introduce a degree of flexibility to these appeal processes, it is nevertheless acknowledged that alternate sources of funding for early recovery need to be explored.

IV. Other issues

A. Use of military assets for disaster response

62. The deployment of foreign military assets to both distant and neighbouring countries is a common feature of major international disaster relief operations. While such operations should remain a predominantly civilian function undertaken by humanitarian actors, foreign military assets can play a valuable role in disaster relief operations.

63. To further examine this issue, the United Nations sponsored an independent study to assess the effectiveness of foreign military assets in natural disaster responses. The study, which was completed in March 2008, looked at six interconnected aspects of effectiveness: timeliness, appropriateness, efficiency, absorptive capacity, coordination and costs. Overall, the study reaffirmed the need for Governments to deploy foreign military assets in an effective and principled manner and the importance of existing international guidelines on this issue, in particularly the Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief (the Oslo Guidelines), which stipulate that the deployment of foreign military assets should respect the core humanitarian principles of humanity, neutrality and impartiality, as well as the sovereignty of States. However, the study identified a considerable lack of awareness and uneven application of the Oslo Guidelines. The study also highlighted continued concern regarding the understanding among Governments and humanitarian actors of the term "last resort" (where military assets should be provided only when efforts to mobilize civilian means have been exhausted). It further showed that the issue of cost-effectiveness is of particular concern to provider Governments, who believe foreign military assets are too costly, and for humanitarian actors, who fear the burden of these costs on humanitarian funding. The Oslo Guidelines stipulate that the cost of deploying military assets should not be borne by affected Governments and should be provided independently of funds earmarked for humanitarian relief assistance.

B. Humanitarian financing for disasters associated with natural hazards

64. In 2007, donors generously provided over $800 million for hazard-related disaster responses, according to the United Nations financial tracking system, which tracks all reported international humanitarian aid provided through the United Nations, the International Organization for Migration, non-governmental organizations, the International Red Cross and Red Crescent Movement and bilateral channels, including in-kind aid and private donations. Hazard-related disaster donations constituted approximately 10 per cent of the global humanitarian funding contributions.

65. During the reporting period, the United Nations system and its partner organizations issued 16 flash appeals for hazard-related disasters, the highest number recorded to date. By the end of May 2008, a total of $352 million, or about 54 per cent of the total requested amount of $655 million, had been funded. The Central Emergency Response Fund allocated almost $90 million (or 25.6 per cent) to these flash appeals, making it by far the largest single channel for contributions.

66. The high number of flash appeals also brought several key challenges, such as the need to revise appeals, the need to launch appeals quickly despite the lack of accurate initial data and the subsequent difficulty of integrating preparedness and early recovery into the appeal process. As a result, an overhaul of the flash appeal process was initiated in November 2007 in collaboration with partners in the Inter-Agency Standing Committee and donors. The process reviewed the flash appeal mechanism in the light of other developments in humanitarian policy and response tools, including the Central Emergency Response Fund; the cluster approach; the resident coordinator/humanitarian coordinator function; the need to improve the participation of non-governmental organizations; the balance between

life-saving and early recovery projects; and current efforts to develop contingency planning, rapid needs assessment and surge capacity. The revised mechanism was endorsed by donors at a retreat in Montreux, Switzerland, on the consolidated appeals process and humanitarian finance in February 2008 and by the Inter-Agency Standing Committee Sub-Working Group on Consolidated Appeals Process in March 2008. The Inter-Agency Working Group endorsed the paper electronically on 13 June 2008.

67. The review focuses on reasserting the core components of the flash appeal process; namely that they should be very rapid (issued within five to seven days of a sudden-onset disaster or from the declaration of an emergency) and based on available information and inference; that initial allocations from the Central Emergency Response Fund should aim for the same timing in order to support the timely generation of an appeal and provide very rapid funding; that flash appeals should be limited to time-critical needs and include early recovery projects for which there is a need and the implementation capacity is available; and that a process of systematic and regular revision of flash appeals using updated assessment information should be obligatory. The flash appeal for Myanmar was the first to successfully implement most of these concepts.

68. With respect to funding from the Central Emergency Response Fund, the Emergency Relief Coordinator committed $148 million to 28 countries affected by hazard events during the reporting period. On average, it took three working days for funding to be approved from the time a final grant request was submitted by the United Nations humanitarian or resident coordinator in the affected country. In this sense, the Fund has proved itself to be a tool that enables early and timely response, in line with the objectives of the Fund.

69. During the reporting period, 66 per cent of funds from the Central Emergency Response Fund for hazard-related disaster responses were provided for flood and storms, 12 per cent for earthquakes, 13 per cent to cope with the effects of drought, 4 per cent for responses to other severe weather conditions and 5 per cent for disease outbreak control. Almost half of the funding was provided to Asia. The largest recipient of disaster funding from the Fund was Bangladesh, which received a total of $26 million in 2007.

70. The need to channel humanitarian funding to upstream activities such as disaster preparedness, early warning and contingency planning was highlighted in a number of contexts, including at the Montreux retreat on humanitarian financing in February 2008. While preparedness measures will alleviate the cost of response and reduce disaster tolls at the onset of disasters, they have often fallen outside of the humanitarian funding for emergency response. Some measures have been taken to improve the situation, including the launch of the Southern African region preparedness and response plan in February 2008 as a flash appeal. However, further efforts to strengthen financial mechanisms for preparedness are necessary.

71. Similarly, analysis of post-crisis action has repeatedly shown that needs related to early recovery receive less financial assistance than humanitarian and development requirements and that dedicated mechanisms to target early recovery activities have not yet been established. As such, additional work is necessary to ensure an effective transition from relief to development, in particular in post-conflict situations.

V. Recommendations

72. Based on the above, the following recommendations are put forward for consideration by Member States:

(a) Member States are encouraged to underline the importance of early and multi-year commitments to the Central Emergency Response Fund and other humanitarian financing mechanisms, both United Nations and non-United Nations mechanisms, in order to ensure predictable and timely access to resources in response to humanitarian emergencies resulting from natural disasters;

(b) The United Nations system and other humanitarian actors are called upon to improve the dissemination of tools and services to support enhanced disaster risk reduction;

(c) Member States and humanitarian agencies are encouraged to promote national disaster preparedness activities, including contingency planning, at all levels within all relevant sectors, including in particular in the most vulnerable areas and within the framework of the Hyogo Framework for Action;

(d) Member States are encouraged to consider increasing allocation of funds for disaster risk reduction activities and enhancing or developing funding mechanisms to support strengthened preparedness for response and early recovery activities;

(e) Member States and regional organizations are invited to make use of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance to strengthen their legal frameworks for international disaster assistance;

(f) Member States are invited to continue their support to the consolidation of United Nations capability in the area of satellite derived geographic information for early warning, preparedness, response and early recovery;

(g) Member States are encouraged to consider the applicability of the Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief for the coordination of foreign military assets to their national and regional disaster structures, bearing in mind the positive role that neighbouring countries can play in supporting disaster responses;

(h) Member States and humanitarian actors are encouraged to consider the Operational Guidelines on Human Rights and Natural Disasters in the implementation of contingency planning, disaster preparedness and response;

(i) Member States are encouraged to support humanitarian organizations in meeting the increasing humanitarian burden exacerbated by the global challenges of climate change and high food and fuel prices, including by making additional resources available to address innovative approaches being developed to meet those needs.

United Nations A/63/278

General Assembly

Distr.: General
13 August 2008

Original: English

Sixty-third session
Item 67 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The right to food

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the interim report of the Special Rapporteur on the right to food, Olivier De Schutter, submitted in accordance with paragraph 33 of Assembly resolution 62/164.

* A/63/150 and Corr.1

08-45993 (E) 100908

Report of the Special Rapporteur on the right to food

Summary

The present interim report highlights some of the challenges currently facing the realization of the right to adequate food and presents the priorities of the mandate of the new Special Rapporteur on the right to food. The Special Rapporteur will seek to devote equal attention to the establishment of an international environment enabling States to develop strategies for the fulfilment of the right to food and to the development of such strategies at the domestic level. During the first year of his mandate, he intends to address the international dimension of the mandate by focusing on four issues: the future of food aid; the impact of trade in agricultural commodities on the right to food; the impact of the protection of intellectual property rights on agriculture; and the impact of the activities of the agribusiness sector on the right to food. He will explore those issues through his mission to the World Trade Organization and various consultations. As regards the national strategies States should put in place in order to respect, protect and fulfil the right to food, the Special Rapporteur will explore the institutional tools that could best contribute to this objective and will devote particular attention to human rights relating to the use of land and women's human rights.

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I. Introduction

1. The mandate of the Special Rapporteur on the right to food was established by the Commission on Human Rights in its resolution 2000/10. In September 2007, the Human Rights Council, in its resolution 6/2, reviewed and extended for three years the mandate of the Special Rapporteur, who has been requested to: (a) promote the full realization of the right to food and the adoption of measures at the national, regional and international levels for the realization of the right of everyone to adequate food and the fundamental right of everyone to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities; (b) examine ways and means of overcoming existing and emerging obstacles to the realization of the right to food; (c) continue mainstreaming a gender perspective and taking into account an age dimension in the fulfilment of the mandate, considering that women and children are disproportionately affected by hunger, food insecurity and poverty; (d) submit proposals that could help the realization of Millennium Development Goal 1 to halve by 2015 the proportion of people who suffer from hunger, as well as to realize the right to food, in particular taking into account the role of international assistance and cooperation in reinforcing national actions to implement sustainable food security policies; (e) present recommendations on possible steps towards achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and as soon as possible enjoy fully the right to food, taking into account lessons learned in the implementation of national plans to combat hunger; (f) work in close cooperation with all States, intergovernmental and non-governmental organizations, the Committee on Economic, Social and Cultural Rights and other relevant actors representing the broadest possible range of interests and experiences, within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields; and (g) continue participating in and contributing to relevant international conferences and events with the aim of promoting the realization of the right to food.

2. On 26 March 2008, the Human Rights Council appointed Olivier De Schutter (Belgium) as the Special Rapporteur on the right to food. Mr. De Schutter started his tenure on 1 May 2008, succeeding Jean Ziegler, who had held the mandate for more than six years. The new Special Rapporteur takes this opportunity to express his deep appreciation for the important work undertaken by Mr. Ziegler in promoting the right to food and developing the mandate.

3. The present interim report is the first submitted to the General Assembly by the new Special Rapporteur in accordance with General Assembly resolution 62/164 and Human Rights Council resolution 6/2. It offers an initial description of the framework within which the Special Rapporteur intends to fulfil his mandate and explains which priorities have been chosen and why.

4. In presenting the priorities of the mandate, the report focuses on the structural and long-term dimensions of the right to adequate food. It is not its objective to discuss the current situation of the right to food in the world. As is well known, the world has experienced during the past year a dramatic increase in food prices on international markets. During the first three months of 2008, international nominal prices of all major food commodities reached their highest levels in nearly 50 years, while prices in real terms were the highest in nearly 30 years, and social unrest

developed in more than 40 countries as a result. It is in the context of these soaring food prices that the Special Rapporteur was appointed. Immediately upon assuming his mandate, the Special Rapporteur presented a background note on the factors behind the crisis and called upon the Human Rights Council to hold a special session on the global food crisis, which was held on 22 May 2008 (see A/HRC/S-7/2). The Council requested the Special Rapporteur to submit a report at its ninth session (8-26 September 2008; see resolution S-7/1 and A/HRC/9/23) on the responses provided by the international community to the global food crisis. In order to minimize duplication, these immediate developments, important as they are, are not addressed in the present report. Instead, the views of the Special Rapporteur on how the mandate should develop and which issues should be addressed are described. The Special Rapporteur would be particularly grateful to all stakeholders for any reactions to these proposals.

5. Under the terms of Human Rights Council resolution 6/2, the Special Rapporteur is encouraged to work in close cooperation with all stakeholders, including non-State actors, in the fulfilment of the mandate. Since the beginning of his mandate, the Special Rapporteur has had opportunities to improve his understanding of the expectations of the members of the Human Rights Council about the mandate, including exchanges with the Council at its seventh special session, devoted to the global food crisis. He also reported to the Council at its eighth session, held from 2 to 18 June 2008, about his participation in the High-level Conference on World Food Security, held in Rome from 3 to 5 June 2008, and to the Human Rights Council at its ninth session.

6. The Special Rapporteur also engaged in consultations with many other actors. Between 1 May and 1 August 2008, he met with high-level representatives of the World Bank and the World Trade Organization. He had exchanges not only with the Office of the United Nations High Commissioner for Human Rights, but also with the United Nations Development Programme (UNDP), the United Nations Children's Fund, the Office for the Coordination of Humanitarian Affairs, the secretariat of the United Nations System Chief Executives Board for Coordination, and the high-level Task Force on the Global Food Security Crisis. He also had contacts with the Food and Agriculture Organization of the United Nations (FAO) (including, but not limited to, its Right to Food Unit), the International Fund for Agricultural Development, the World Food Programme (WFP), and the Standing Committee on Nutrition, and launched consultations with the private sector, including the Alliance for a Green Revolution in Africa. He also held a number of consultations with non-governmental organizations and academic experts. The Special Rapporteur was impressed by the level of commitment of those actors to the realization of the right to food and by the high expectations they have for the mandate. He is grateful to all those with whom he has consulted and looks forward to deepening those consultations in the coming year.

II. Approach to the mandate

7. The Special Rapporteur believes that a crucial first step towards the realization of the right to adequate food is the achievement of the first Millennium Development Goal. The international community must focus on the needs of the

900 million persons who are hungry.[1] While this may sound obvious, it contrasts both with the idea that the problem of hunger can be overcome simply by boosting the level of agricultural production and with the idea that this can be done by combating poverty in general. Raising agricultural production levels may be important in its own right, but it does not ensure that the poor, who cannot afford to acquire food, or smallhold farmers, who cannot always adequately afford the inputs needed to produce food or lack access to credit, water or adequate infrastructure, will benefit. Combating poverty is, of course, a hugely important objective in itself, but it does not ensure that the hungry will benefit proportionately. This is because hunger is not only a consequence, but also a cause of poverty. Poverty is related to multiple deprivations, of which undernourishment is only one, so that addressing poverty in general, if it means first addressing its other dimensions, will not always directly or swiftly result in the reduction of undernourishment.

8. Therefore, we must constantly be aware of who is hungry. The majority of hungry people in the world live in rural areas. About half of them live in smallholder farming households. Roughly two tenths are landless. Perhaps one tenth are pastoralists, fisherfolk and forest users. The remaining two tenths are the urban poor. We should target our efforts towards those groups. In addition, we should not prioritize the interests of one of these categories over the other (as when we speak about the need to lower the prices of food on domestic markets in order to meet the needs of the urban poor, although this will be detrimental to agricultural producers), but instead, we should recognize the need to develop a panoply of strategies that can meet their needs simultaneously. We need not one, but a number of policies combined, to meet the needs of the diverse groups of hungry people.

9. The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement (see E/C.12/1999/5, para. 6). It is not about being fed. It is about being guaranteed the right to feed oneself, which requires not only that food be available (that the ratio of production to the population be sufficient), but also that it be accessible — that each household either have the means to produce its own food or have sufficient purchasing power to buy the food it needs. The right to adequate food is recognized in specific instruments, such as the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, but it is stated most explicitly, at a more general level, in article 25 of the Universal Declaration of Human Rights and in article 11 of the International Covenant on Economic, Social and Cultural Rights. The latter should be read taking into account the interpretation of the Committee on Economic, Social and Cultural Rights, both in its concluding observations on the reports submitted by the States parties to the Covenant and in general comment 12, on the right to food. These prescriptions are further complemented by the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security*, adopted by the States member of the FAO Council in November 2004. The Guidelines are a set of recommendations States have

[1] In 2005, FAO estimated that 852 million people, mainly in the developing world, were chronically or acutely malnourished. The regions affected were Asia, particularly India (221 million) and China (142 million); sub-Saharan Africa had 204 million hungry and was the only region of the world where hunger was increasing. FAO estimates that the number of hungry people increased by about 50 million in 2007 as a result of high food prices.

adopted to assist in the implementation of the human right to adequate food. They offer practical guidance to States about how best to implement their obligation under international law to respect the right to adequate food and to ensure freedom from hunger.

10. As recognized both under these provisions and in customary international law, the right to food imposes on all States obligations not only towards the persons living on their national territory, but also towards the populations of other States. These two sets of obligations complement one another. The right to food can be fully realized only when both national and international obligations are complied with. National efforts will often continue to have a limited impact in combating malnutrition and food insecurity unless the international environment, including not only development assistance and cooperation but also trade and investment regimes or efforts to address climate change at a global level, facilitates and rewards those efforts. Conversely, efforts by the international community to contribute to the objectives will depend for their effectiveness on the establishment of institutional and legal frameworks at the national level and on policies that are effectively geared towards the realization of the right to food in the country concerned. This mutual dependency of international and national obligations regarding the right to food is well expressed in articles 22 and 23 of the International Covenant on Economic, Social and Cultural Rights in which a link is established between the difficulties encountered by States in implementing the Covenant and the advisability of international measures likely to contribute to such implementation, and international action that may be taken to achieve the rights enshrined in the Covenant are described.

III. An enabling international environment

A. International obligations of States

11. Article 11, paragraph 2, of the Covenant refers to the need to take into account the problems of both food-importing and food-exporting countries and imposes on States an obligation to ensure an equitable distribution of world food supplies in relation to need. This wording itself confirms that States have "international" obligations, reaching beyond the national territory, in addition to the obligations each State has to its own population. Indeed, under general public international law, States may not disregard the impact of activities under their jurisdiction on other States' territories. Consistent with this requirement, the Committee on Economic, Social and Cultural Rights has noted that States parties to the Covenant should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required; should ensure that the right to adequate food is given due attention in the international agreements they conclude; and should consider the development of further international legal instruments to that end (E/C.12/1999/5; see also E/CN.4/2005/47). The Human Rights Council, in its resolution 7/14, considered that all States should make every effort to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries.

12. The reference in article 23 of the Covenant to the various forms of international action that may be taken to achieve the rights under the Covenant clearly implies that, in order to comply with their international obligations, States must not only abstain from taking measures that have a negative impact on the right to food in other countries, but they may also need to adopt positive measures in order to protect and fulfil the right to food abroad. As shown by the reference in article 23 to the conclusion of conventions, these international obligations may require not only unilateral action, but also international cooperation, such as the provision of public goods at the global level. Ultimately, the goal should be to establish a social and international order in which the rights and freedoms set out in the Universal Declaration of Human Rights can be fully realized — something to which, under the terms of article 28 of the Universal Declaration, everyone is entitled. In principle, for a State to fulfil its international obligations by providing international assistance and cooperation, including aid, the consent of the receiving State is necessary. This follows not only from the reference to "free consent" in article 11, paragraph 1, of the Covenant, but also from the principle of the exclusive competence of the State in regard to its own territory (see, e.g., the Charter of the United Nations, Article 2, para. 4). The only exception to this principle is where the unwillingness of the State concerned to accept aid may result in a violation of the right to food of its own population sufficiently serious and widespread as to justify the imposition on the international community of a responsibility to protect.

13. There is another trap that should be avoided in clarifying the scope of the international obligations under article 11 of the Covenant. Call this the paradox of many hands: greater the number of States that have contributed to creating a situation that leads to violations of the right to food the more difficult it becomes to assign responsibility to each of the States concerned for the situation thus created. This paradox is especially visible where international cooperation leads to the establishment of international organizations to which certain decision-making powers are transferred but which are not considered to inherit the pre-existing human rights obligations of their States parties since they possess a separate legal personality with rights and obligations defined independently from those of States. At a minimum, States should carefully assess the impact on the right to food of any such agreements to ensure that they do not circumvent their obligations by giving an international organization power that it then exercises in a way that results in denial of the right to food, which, would have constituted a human rights violation if directly attributable to the State (see A/61/10, para. 90, article 28 of the draft articles on responsibility of international organizations). This is of course without prejudice to the obligations of the international organization itself which, remains bound under general rules of international law under its constitution or under any international agreement to which it is a party.

14. The right to adequate food is not one which any State can fulfil in isolation. All States have a shared responsibility, grounded in international law, to ensure that the international environment in which States operate enables them to respect, protect and fulfil the right to food for the benefit of their own populations. During the first year of his mandate, the Special Rapporteur intends to assist States in understanding the scope of their responsibilities in this regard by focusing on four areas, which he considers particularly relevant in the current context.

B. Issues for further consideration

1. Food aid

15. During 2008/09, a number of instruments relating to food aid will be renegotiated. In addition, the responses to the soaring food prices have highlighted the difficulties of combining emergency responses with the need to promote developing country food markets and food security in food aid recipient countries. There is a consensus on the need to switch from aid in kind to aid through cash transfers allowing procurement from local or regional markets and on the importance of food aid being provided with a clear exit strategy in order to avoid dependency. At the same time, since international agencies such as WFP are not reliable buyers in many markets, their ability to contribute to market development remains limited; in certain cases, the importance of WFP on local markets is such that withdrawal would have an impact on large traders and on the ability of the export sector to further develop. In the procurement policies of such agencies as WFP, a balance must be struck between the need to support smallhold farmers and the costs entailed by the need to monitor a large number of limited-volume contracts (see WFP/EB.1/2006/5-C). These are some of the challenges facing the "purchase for progress" approach, which aims to optimize the impact of WFP local food purchases (which totalled $600 million in 2007). Other questions concern the need for a global food fund in order to ensure that needs can be met in times of emergency without further tightening the market; the management of bilateral food aid; and the follow-up to the Paris Declaration on Aid Effectiveness to the extent that it relates to food and insofar as official development assistance may contribute to the right to food. In order to inform his work on these issues, the Special Rapporteur will hold a consultation in Ottawa in November 2008 in collaboration with Rights and Democracy and the Canadian Foodgrains Bank. The focus of the consultation will be on the future of the Food Aid Convention and the implementation of guideline 15 of the FAO *Voluntary Guidelines* on the right to food. It is expected that conclusions will be presented in the report of the Special Rapporteur to the Human Rights Council at its tenth session, to be held in March 2009.

2. Trade liberalization in agriculture and the right to food

16. In June 2008, the Special Rapporteur conducted a mission to the World Trade Organization. He wishes to thank in particular Pascal Lamy, the Director-General, and the World Trade Organization secretariat for their willingness to contribute to the mission, in which they fully cooperated. This mission was prepared in two expert meetings: one, held in cooperation with the University of Paris 1 Panthéon-Sorbonne, was held in Paris on 16 and 17 June 2008, and the second was convened with the non-governmental organization 3D — Trade, Human Rights, Equitable Economy, in Geneva on 19 June 2008, focusing on the question of intellectual property rights in the food system. The Special Rapporteur intends to engage in bilateral consultations with other stakeholders, in particular the ambassadors to the World Trade Organization, before finalizing his report to the Human Rights Council at its tenth session.

17. The mission to the World Trade Organization built on previous work done to explore the impact of trade liberalization, particularly through the Organization's agreements, on the right to food (see, e.g., E/CN.4/2002/54). Its aim was to examine

the relationship between States' obligations to ensure the right to adequate food and the regime set up under the World Trade Organization agreements, in particular the Agreement on Agriculture, but also the Agreement on Trade-Related Aspects of Intellectual Property Rights and the General Agreement on Trade in Services. The purpose was not simply to superimpose distinct sets of commitments in order to identify potential incompatibilities, it was also, and more importantly, to examine whether the lowering of barriers to trade in agricultural products might limit the ability of the State concerned to protect the right to food, either because the livelihoods of its agricultural producers would be threatened (particularly for net food-importing countries) or because part of its population would not have the purchasing power required to buy adequate food in sufficient quantities, following the inflationary impact of the opening up of exports (for net food-exporting countries). At this early stage of his examination of the issues, the Special Rapporteur will limit himself to highlighting the questions which, in his view, deserve particular attention in his report and the methodological problems encountered.

18. A relatively small proportion, estimated at 15 per cent, of the food produced globally is traded internationally. According to the World Bank, the percentages are 6.5 for rice, 12 for corn, 18 for wheat and 35 for soybeans. Nevertheless, the prices fixed on international markets have an important impact on the ability of farmers in the world to make a decent living, since, as a result of trade liberalization, there is a tendency for domestic and world prices to converge, for instance because imported goods compete with domestically produced goods on local markets. Historically those prices have been declining, particularly since 1979, since they correspond to marginal production costs, which are determined by the unit production costs of highly competitive large-scale agricultural producers in such countries as Argentina, Brazil, India and South Africa. In those countries unit costs are low because the agro-ecological conditions are suitable for large-scale capital-intensive and land-extensive production, accentuated by considerable prior investments and contributed to by the fact that wages are lower than in developed countries pursuing a similar agricultural model. In the latter, less productive agricultural producers could compete internationally only by receiving heavy subsidies from the State, as in the European Union or the United States of America. In contrast, agriculture in regions where investments were insufficient or where farmers cannot be supported, such as in sub-Saharan Africa (where productivity per active labourer is a fraction of that in Europe or the United States), was severely damaged — and in certain cases destroyed — by such international competition. The question is whether trade liberalization in agricultural products, as such, is bound to lead to such failures owing to the considerable differences in productivity (and thus competitiveness) between producers from different regions or whether a multilateral trading system in agriculture can be imagined that allows the benefits of trade to be reaped without causing the disruptive effects seen in the past. Trade liberalization is not an end in itself. As confirmed by the preamble to the Marrakesh Agreement establishing the World Trade Organization and by the preamble to the Agreement on Agriculture, it is a means to achieve sustainable development and food security and to raise living standards.

19. The promise of trade liberalization is that by creating incentives for producers from different States to specialize in the products or services in which they have a comparative advantage, it will benefit all the trading partners, since it will lead to

efficiency gains within each country and to increased overall levels of world production. Extensions of the classical "static" theory of comparative advantage suggest that economic growth and poverty alleviation may result. This assumes both that there exists in the States concerned a private sector both sufficiently robust and sufficiently flexible to act on price signals from the market and that economic growth will result in poverty alleviation through a "trickle-down" effect, although the automatic existence of such an effect remains contentious among economists. Concerning the right to food, however, what matters is not only whether more gets produced or traded or whether trade liberalization leads to economic growth. Rather, two other questions are central. First, the human rights perspective is concerned with who are the losers when countries specialize in commodities in which they have a comparative advantage as a result of the lowering of trade barriers and whether the losses can be avoided under alternative national and international policies. Whereas the economic argument for trade liberalization focuses on the long-term and aggregate (country-level) results, the human rights perspective focuses on the immediate consequences and the sectoral impact within each country. An approach based on the right to food, more specifically, should ensure that the situation of the hungry or the malnourished in the country concerned will improve as a result of the lowering of trade barriers. In this regard, note should be taken of the way in which the global supply chain has developed in the food sector. Whereas improved access to global markets can, for certain categories of farmers, constitute a powerful incentive to produce and to invest since it rewards any productivity gains they make, it can also shut out those who have insufficient capital to make the required investments and can increase their dependency on large, often foreign, food processors and retailers, with which they can hardly bargain on equal terms. The large-scale, agro-industrial producers that the global supply chain favours often produce crops for export through monoculture. The economies of scale reaped in such an approach are unavailable to marginalized smallhold producers, who face obstacles to integration into global supply chains. In addition, the support given by industrialized countries to their agricultural producers combined with a lack of tariff protection on the side of developing countries has had a significant detrimental impact on developing countries' producers, particularly insofar as it resulted in import surges against which they were insufficiently protected. Far from removing such distortions, the Agreement on Agriculture has to a large extent allowed them to continue, thus denying producers from developing countries the benefits of free and undistorted trade. It has also made it difficult for those producers to remain competitive in their own domestic markets, since the prices they could receive for their produce were insufficient and plunged many of them into debt, leading to rural exodus.

20. Second, a human rights perspective helps to identify the risks of countries being locked into the production of certain commodities in which they have established a comparative advantage. Comparative advantage is often constructed. It is not simply the result of natural endowments in productive factors, but is the result of specific public policies or of the order in which the respective trading partners have achieved economies of scale in particular lines of production. Although countries are constrained in what they may produce by natural factors, whether or not they are competitive in the production of agricultural commodities also depends heavily on political choices: how much is invested in rural infrastructure, in irrigation or in developing access to microcredit, or how much support is given to farmers to compensate for insufficiently remunerative prices. Reliance on

comparative advantage should not be a pretext for impeding the climb of developing countries up the ladder of development, including in the agricultural sector, by moving towards the export of more value-added goods, for instance processed foods.

21. Both of these considerations point in the same direction. International trade in agricultural products may produce great benefits for some, namely the most competitive, taking into account the public support they receive and the kind of environment in which they operate. But it will contribute to the realization of the right to food only if two conditions are fulfilled. First, Governments should have the policy flexibility both to protect their agricultural producers whose livelihoods may be threatened by import surges or repressed prices and to allow for a sufficient degree of diversity in various types of production. Second, smallhold farmers from developing countries — who constitute the majority of the hungry people on the planet — must not be marginalized as a result of the development of global supply chains, and they must be either better integrated in those chains (provided the means to reap the gains from the lowering of trade barriers) or allowed to prosper by relying on local and regional markets, which must be insulated from the damaging effects of global trade liberalization. More than any other sector of production, agriculture provides a source of livelihood as well as sustenance for the world's poor. It must therefore enjoy a special status in the world trading system.

22. Whether or not these conditions are realized depends not on the regime of the World Trade Organization agreements alone, but also on other international regimes and on the policies pursued at the national level. A major difficulty is that the impact of the World Trade Organization agreements cannot be considered in isolation from policy choices made elsewhere. The Special Rapporteur will pay particular attention not only to the questions of market access, domestic support and export subsidies under the Agreement on Agriculture, but also to safeguard clauses, such as the special safeguard clause open to developing countries having undergone tariffication[2] (article 5 of the Agreement on Agriculture) or the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (the "Marrakesh Decision"). The latter decision establishes response mechanisms to deal with the effects of liberalization of trade in agricultural commodities on the availability of "adequate" supplies of basic foodstuffs from external sources under reasonable terms and conditions. The report will examine whether the Marrakesh Decision allows States to protect the right of their populations to adequate food, particularly as a component of the right to an adequate standard of living of their smallhold agricultural producers. Consideration will also be given to the implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures in order to assess whether its implementation may create disproportionate obstacles to the access of agricultural producers from developing countries, particularly smallhold farmers, to the markets of industrialized countries and, if so, how such obstacles could be overcome, taking into account in this regard the important contribution of the Standards and Trade Development Facility launched in September 2002. Finally, the report will analyse the impact of the General Agreement on Trade in Services, particularly on small farmers in developing countries facing competition from global retailers on their domestic markets.

[2] Procedures relating to agricultural market-access provision in the Agreement on Agriculture under which all non-tariff measures are converted into tariffs.

23. However, it is crucial to note that both the trade policies pursued by any State and its economic, social and taxation policies — on which much of the impact of international trade will depend — do not follow from the World Trade Organization agreements themselves, although they set a framework for the members. Rather, the policies result from the choices made by the Governments concerned in the light of domestic considerations or imposed on them as conditionalities by international financial institutions[3] or as part of trade agreements concluded at the bilateral or regional level; they depend on the budgetary means available to Governments to finance such policies, including for investments in agriculture and in rural infrastructure. The impact of the World Trade Organization framework can hardly be isolated from these other influences (or constraints) on governmental policies. The Special Rapporteur will seek to provide guidance to States about how they can maximize benefits from the existing framework and ensure that further steps towards trade liberalization do not have a negative impact on the right to adequate food, but instead contribute to its realization. Ultimately, upholding the right to adequate food is a responsibility of States, which are obliged under international law to take this right into account in the conclusion and implementation of trade agreements. The Special Rapporteur can contribute to this by highlighting the risks that accompany trade liberalization and by identifying possible solutions. But whether or not the right to food is observed will depend not on the World Trade Organization agreements alone, but on the combined result of those agreements and the domestic policies of the States concerned.

3. Intellectual property rights in the food system

24. The integration of intellectual property rights under the World Trade Organization framework deserves a separate comment (see also E/CN.4/Sub.2/2001/13). The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) requires World Trade Organization members to adopt wide-ranging minimum standards of intellectual property protection in a number of areas, including copyright, trademarks, patents and plant variety protection, all of which will have considerable implications across the food system. In particular, TRIPs requires that a minimum patent protection of 20 years be available for all inventions, whether of products or processes, in almost all fields of technology. Protection is optional for plants and animals (other than microorganisms), as well as for essentially biological processes used in the production of plants or animals (other than microbiological processes). However, World Trade Organization members must provide for the protection of plant varieties either by patents, by an effective sui generis system or by any combination thereof (article 27, para. 3 (b)).

25. In this context, a number of issues arise. The result of the strengthened protection of intellectual property rights at the global level, if it is indeed extended to plant varieties and seeds, would be to reinforce the control of corporations claiming such rights in the global food system[4] and to increase the price of inputs for farmers using protected plant varieties. Extending patents to plant varieties in

[3] According to certain estimates, over 80 per cent of the tariff reductions consented to by developing States for agricultural products were the result of specific demands from international financial institutions.

[4] These patent-holders are mostly from industrialized countries. UNDP, in its *Human Development Report 1999*, estimates that industrialized countries hold 97 per cent of all patents worldwide.

particular would accelerate the "verticalization" of the food production chain, as agricultural producers would become dependent on the prices set by companies for the seeds on which they have patents and would be denied the traditional right to sell and exchange seeds among themselves, as well as to save part of their crops in order to retain seeds for the next planting season — either as a consequence of the protection of patents or by the use of "technology use agreements" by companies selling seeds. It would also lead to a decrease in biodiversity, since patents are granted on stable or fixed varieties, which, although they promise higher yields, encourage monocultural forms of agriculture.

26. Whether the sui generis option is a viable one remains an open question, since the precise content of this requirement is still contested. It has sometimes been argued that, in order to comply with this requirement, World Trade Organization members should adopt national legislation in conformity with the 1991 version of the International Convention for the Protection of New Varieties of Plants, the aim of which is to grant and protect breeders' rights under a regime that ensures a significantly higher level of protection than previous versions of the Convention and makes the selling and exchanging of seeds of protected varieties illegal. At the other end of the spectrum, a number of countries, particularly from the African group within the World Trade Organization (even though many have not adopted a sui generis system in their domestic legislation), have taken the view that the TRIPs Agreement should be reconciled with the requirements of food security and thus with the well-established practices of saving, sharing and replanting seeds, and with the equally traditional practices of local farming communities to conserve and sustainably use biological diversity, including through the selection and breeding of plant varieties.[5]

27. A number of developing countries have been pressured to adopt national legislation that is in compliance with the 1991 version of the Convention, in particular as part of trade agreements they have concluded or as a result of pressures brought to bear on them through the "technical assistance" provided to them. They have been discouraged from making use of the sui generis flexibility for the promotion of food security by facilitating access to genetic resources for agriculture, for instance through an "access and benefit-sharing" regime. At the same time, initiatives have been developing to resist this trend. The Organization of African Unit (now the African Union) has developed an African Model Law for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources which aims to achieve a balance between the protection of breeders and the preservation of local farmers' rights in the interest of the sustainable use of biodiversity. The International Treaty on Plant Genetic Resources for Food and Agriculture, with 119 States parties, was adopted by the FAO Conference in November 2001 and has been in force since 29 June 2004. It seeks to establish a multilateral system to facilitate access to plant genetic resources for food and agriculture and to share the benefits in a fair and equitable way. It is a promising and unique system of governance for global commons, aimed at ensuring food security, but it extends only to plant genetic resources for food and agriculture listed in annex I to the Treaty that are under the management and control of the States parties and in the public domain (article 11.2), although States are to

[5] On these various positions, see World Trade Organization Council for Trade-Related Aspects of Intellectual Property Rights document IP/C/W/370/Rev.1.

take appropriate measures to encourage natural and legal persons within their jurisdiction who hold plant genetic resources for food and agriculture listed in annex I to include such resources for food and agriculture in the multilateral system (article 11.3). Despite its emphasis on free flows of germplasm ("open access"), the Treaty allows intellectual property rights on anything that is not "in the form received" (article 12.3), so that plant breeders' rights can be granted to plant varieties developed from genetic material obtained from the multilateral commons. It is therefore of limited usefulness in compensating for the privatization, through intellectual property protection, of genetic resources used in agriculture. In addition, the implementation by States of the provisions on farmers' rights remains uneven.

28. The International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to enjoy the benefits of scientific progress and its applications (article 15, para. 1 (b)). While the Covenant also guarantees the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author, this human right benefits only natural persons and not legal persons. In addition, the Committee on Economic, Social and Cultural Rights, in its general comment 17, takes the view that the private interests of authors should not be unduly favoured and the public interest in enjoying broad access to their productions should be given due consideration, and that ultimately, intellectual property is a social product and has a social function. States parties thus have a duty to prevent unreasonably high costs for access to plant seeds or other means of food production (E/C.12/GC/17, para. 35). Clearly, the privatization of genetic resources for agriculture resulting from the extension of intellectual property rights to plant varieties, plants or seeds may put this balance in jeopardy. The Special Rapporteur intends to study in depth this issue and others where intellectual property relates to other parts of the food system, in order to assist States in ensuring that the implementation of the TRIPs Agreement, and the protection of intellectual property rights on plant varieties in general, remain fully compatible with their obligation to protect the right to food, including the right of farmers to produce food under conditions that ensure an adequate standard of living. With this objective in mind, he will broaden his consultations beyond the World Trade Organization secretariat, academic experts and non-governmental organizations to the secretariat of the World Intellectual Property Organization and of the International Union for the Protection of New Varieties of Plant. Concrete recommendations will follow those consultations.

4. Impact of the activities of the agribusiness sector

29. A third field in which States may have responsibilities beyond their national borders to protect the right to adequate food concerns the regulation of transnational corporations in the food production and distribution chain. As requested by the Human Rights Council in its resolution 7/14, the Special Rapporteur intends to study this issue in close cooperation with the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises. If adequate funding is available, he hopes to be able to convene a multi-stakeholder consultation to examine the contribution of the private sector to the realization of the right to food, distinguishing in this regard the role of the producers of inputs (seeds, fertilizers, pesticides), the role of food processors and the role of large retailers. On the basis of consultations and the research he has already commissioned, the Special Rapporteur will offer a diagnosis of the obstacles

to the full realization of the right to food in the current organization of the food production and distribution chain. Taking as a departure point the framework proposed by the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises (A/HRC/8/5), he will seek to identify the implications for both companies and States of the right to adequate food. He will also identify the best practices that are emerging, particularly as regards access to inputs and the inclusion of smallhold producers in the global supply chain, which contribute to the realization of the right to food. The collaboration of business will be actively sought in order to achieve consensus on those issues.

IV. Domestic framework for the implementation of the right to food

30. At the country level, strategies should be put in place that ensure the progressive realization of the right to adequate food. States make an important contribution to the right to adequate food by supporting local agriculture, in particular by providing an adequate level of public investment in this sector, by building adequate infrastructure for transport and communication and by facilitating access to credit, to insurance mechanisms — particularly weather-indexed insurance schemes mitigating farmers' risks — and to inputs at an affordable price, particularly for smallhold producers. In this respect, the sudden increase in food prices on international markets represents an opportunity. The agricultural sector has been neglected for the past 25 years, despite the fact that agricultural growth is particularly powerful in reducing poverty.[6] The recent increase in prices may lead States to reinvest in agriculture, thus reversing this trend. But a national strategy aimed at realizing the right to adequate food goes beyond improving the level of agricultural production and beyond improving the situation of agricultural producers. Three dimensions of such a strategy deserve attention here.

A. Institutional component

31. A national strategy aimed at realizing the right to adequate food has, first, an institutional dimension. This is an essential complement both to the shaping of an enabling international environment and to national agricultural policies. Even if a State produces enough food to feed its entire population, has the capacity to export food or has the means to procure food from other States, the food that is available may still not be accessible to certain segments of the population. In general, this will be because those groups lack the necessary purchasing power to acquire the food that is produced or put on the market. This in turn may be because their needs are not well understood or are insufficiently taken into account in national policies because of discriminatory practices or because of a lack of control of private actors producing or distributing food. But whatever the reasons for the threat to their right to adequate food, the members of those groups must be adequately protected from such threats. This is a condition for food security, which is more than being fed.

[6] See the World Bank, *World Development Report 2008: Agriculture for Development*.

32. It is not the purpose of the present introductory report to enter into the detail of such national strategies for the realization of the right to adequate food and to examine the methodological and institutional issues raised by the implementation of such strategies. The Special Rapporteur intends to examine these questions in the course of his country missions and in his discussions with the national institutions for the promotion and protection of human rights, with whom he intends to examine their potential contribution to such national strategies. It is expected that the Right to Food Unit of FAO will present, before the end of 2008, a guide on legislating for the right to food, providing a detailed outline of three levels at which States could improve the regulatory framework of the right to adequate food (by constitutional provisions, by the adoption of a framework law and by ensuring a compatibility review of the most important pieces of regulation having an impact on the right to food). The publication of the guide should provide a unique opportunity to launch a discussion about how these prescriptions could be taken into account in a variety of national contexts.

B. Rights relating to the use of land

33. Security of land tenure presents a clear link to the human right to adequate food (see A/57/356, paras. 24 and 30). Half of those who are food-insecure live in smallhold farming households, and approximately 20 per cent are landless agricultural labourers: security of land tenure and access to land as a productive resource are essential for the protection of the right to food of both of these groups of people. Guideline 8, paragraph 10 of the FAO *Voluntary Guidelines* on the right to food emphasizes the need to promote and protect the security of land tenure, especially with respect to women and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit; and it recommends advancing land reform to enhance access for the poor and for women. Building on this guideline, at the 2006 FAO International Conference on Agrarian Reform and Rural Development member States emphasized the essential role of agrarian reform in the realization of basic human rights and food security. They reaffirmed that wider, secure and sustainable access to land, water and other natural resources related to rural people's livelihoods, especially women and indigenous, marginalized and vulnerable groups, was essential to hunger and poverty eradication, contributed to sustainable development and should therefore be an inherent part of national policies. Indeed, rights related to the use of land also make economic sense: it has been widely documented that providing landowners or land users with security against eviction enhances their competitiveness by encouraging land-related investment, and lowers the cost of credit by increasing the use of land as collateral.[6]

34. As highlighted, for instance, in the work of the International Land Coalition,[7] the question of human rights related to the use of land is particularly topical for three reasons. First, the tendency towards trade liberalization in agriculture results in pressure to concentrate land in the hands of large agricultural producers who are better connected to the global markets and who can more easily meet the volume and standards requirements for export. This creates new threats to the security of land tenure for smallhold farmers. Indeed, trade liberalization in other sectors also

[7] See http://www.landcoalition.org.

may increase the demand for land. The relationship between local resource users and large industries is characterized by major imbalances of power. A number of cases have been documented where farmers have been expropriated for the building of industrial plants in conditions that amount to forced eviction with no or insufficient compensation. For this reason, it is important not to focus exclusively on the economic case for securing rights related to land but to understand this as a human rights issue: while the strengthening of property rights is a condition for markets to transfer land to more productive uses and users, this should be encouraged only to the extent that it does not lead to further marginalization of the poorest, resulting for instance from distress sales of land by indebted farmers.

35. Second, the increased use of agrofuel may aggravate the insecurity of tenure. In a recent study,[8] the International Institute for Environment and Development and FAO note that, while the development of agrofuels may have positive effects under certain conditions, it also leads to competing resource claims between local resource users, Governments and incoming agrofuel producers, so that where appropriate conditions are not in place, the rapid spread of commercial agrofuel production may result — and is resulting — in poorer groups losing access to the land on which they depend. In such contexts the spread of commercial agrofuel crop cultivation can have major negative effects on local food security and on the economic, social and cultural dimensions of land use. The authors therefore call upon Governments to develop safeguards in procedures to allocate land to large-scale agrofuel feedstock production and not to abuse such concepts, as "under-utilized", "unproductive" and "degraded land" to avoid allocating land on which local user groups depend for their livelihoods.

36. Third, the recent increase in the price of primary agricultural commodities on international markets has led investors to buy land suitable for cultivation while speculating on further increases in the price of land in the future. This may result in poorer land users being priced out of land markets. It may also lead to the accelerated expansion of monocultures for the production of cash crops and to new risks resulting from the depletion of soils and the loss of biodiversity. Security of tenure constitutes an essential safeguard against these developments being unimpeded and further marginalizing the most vulnerable.

37. Noting that security of tenure is critical for the majority of the world's people, who depend on land and land-based resources for their lives and livelihoods, the former Special Rapporteur on adequate housing recommended that studies be conducted in this regard, building on the work of organized peasant and indigenous peoples' movements (A/HRC/4/18, para. 31). In close cooperation with other mandate-holders, particularly on housing and on the rights of indigenous peoples, the Special Rapporteur on the right to food will devote his attention to the question of rights related to the use of land as an essential condition for the realization of the right to adequate food. He also intends to place special emphasis on the protection of women's rights in this context. Landowners and land users should be protected from forced eviction, taking into account, in particular, the Basic Principles and Guidelines on Development-based Evictions and Displacement presented by the Special Rapporteur on adequate housing (A/HRC/4/18, annex I). States should also protect rights related to the use of land from interference by private parties. In

[8] *Fuelling Exclusion? The Biofuels Boom and Poor People's Access to Land*, Lorenzo Cotula, Nat Dyer and Sonja Vermeulen, www.iied.org/pubs/pdfs/12551IIED.pdf.

certain circumstances, access to land should be facilitated, particularly for landless agricultural workers.

C. Women's rights

38. The strengthening of women's rights is crucial for an effective national strategy for the realization of the right to adequate food. As noted by the International Assessment of Agricultural Knowledge, Science and Technology for Development, the proportion of women in agricultural production and post-harvest activities ranges from 20 to 70 per cent, and their involvement is increasing in many developing countries, particularly with the development of export-oriented irrigated farming, which is associated with a growing demand for female labour, including migrant workers. In addition, the majority of rural shop owners are women, and it is women, in general, who sell on the markets.

39. Article 13 of the Convention on the Elimination of All Forms of Discrimination against Women provides for the elimination of discrimination against women in economic and social life, particularly regarding the right to bank loans, mortgages and other forms of financial credit. Although there has been progress in ensuring equality between the sexes under the law, women continue to suffer from discrimination in a number of areas.[9] They do not benefit from equal access to economic resources, particularly land ownership. In a number of States, discriminatory family laws restrict the legal capacity of married women to administer or to inherit property. In certain cases, agrarian reform laws restrict the entitlement to women who are heads of household. Even when equal rights are fully recognized, women suffer de facto discrimination within the household in access to resources (for instance, women own only 2 per cent of all land), work opportunities or pay and access to health care, education, information and participation. In addition, women from certain groups may face multiple forms of discrimination. According to the International Assessment of Agricultural Knowledge, Science and Technology for Development, this discrimination may be perpetuated by current developments. The growing competition in agricultural markets increases the demand for flexible and cheap labour. Pressures mount on and conflicts develop over natural resources. In recent years, Governments have diminished their support for small-scale farms, and economic resources have been reallocated in favour of large agribusinesses. Others have documented the violations of women's rights in global supply chains.[10]

40. Here again, the human rights rationale is reinforced by an economic rationale. Because women play a key role in food and agriculture, growing, producing and selling food, they represent an opportunity for the implementation of the right to food and an untapped development potential: by improving their status and strengthening their access to economic resources, all of society may benefit. In addition, women often hold domestic responsibilities for food, childcare, water and firewood. Improving their education can make a tremendous difference in child nutrition if they know how to handle and preserve food and know what is healthy and safe for consumption.

[9] See FAO, *Women and the Right to Food: International Law and State Practice*, 2008.

[10] See, Oxfam, *Trading Away Our Rights: Women Working in Global Supply Chains*, 2004.

41. The realization of the right to food requires that we prioritize women's access to education, science and technology and ownership and control of economic and natural resources. All discriminatory measures must be removed, for example to facilitate access to land ownership and credit schemes. In addition, income-generating activities for women should be supported, and women's organizations and networks must be strengthened. The International Assessment of Agricultural Knowledge, Science and Technology for Development recommends that women's farmer groups be given explicit priority in value chains. It also lists other changes that may strengthen women's contributions to agricultural production and sustainability. The Special Rapporteur intends to build on these findings in his future work.

V. Conclusion

42. **The present preliminary report has highlighted some of the challenges currently facing the realization of the right to adequate food. With an estimated 900 million people suffering from hunger, ensuring the right to adequate food must be a top priority for all States and the international community as a whole. The Special Rapporteur is committed to working with all interested stakeholders towards developing sustainable solutions for eradicating hunger and implementing the right to food.**

43. **Future reports will identify specific recommendations arising from the work of the Special Rapporteur for the consideration of the General Assembly.**